

# **County Tax Sale Procedural Manual**

***Volume I: Public Auction***



**March 2008**

**Controller *John Chiang***

***California State Controller's Office***







**JOHN CHIANG**  
California State Controller

March 24, 2008

**To the Tax Collectors of California:**

I am pleased to provide you with the 2008 edition of the *County Tax Sale Procedural Manual*. This handbook is a result of the ongoing efforts of the State Controller's Office to keep the county tax collectors and their staff apprised of the most current laws, statutes, practices, and procedures concerning the various aspects of the tax sale process.

The handbook is presented in a four-volume set. This format is designed to provide clear, comprehensive, and specific instructions for each tax sale preparation process: Public Auction, Sealed Bid Auction, Agreement Sale, and Internet Auction.

If you have any questions, comments or input to the handbook please contact my staff in the Property Tax Collection Standards and Procedures Program at (916) 445-6321, or by email at [propertytax@sco.ca.gov](mailto:propertytax@sco.ca.gov).

Sincerely,

*original signed by,*

**JOHN CHIANG**  
California State Controller



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# Section 1: Introduction

This *2008 County Tax Sale Procedural Manual, Volume I: Public Auction*, is one of a four-volume set of handbooks produced by the State Controller's Office, Property Tax Collection Standards and Procedures Program. These handbooks are designed to provide comprehensive instructions and recommendations on how to prepare, conduct, and complete each of the four types of tax sales outlined in the California *Revenue and Taxation Code*.

Although each of the four types of tax sales has its own distinctive features, many of the procedures involved in preparing and completing the sales are very similar and, in some cases, they are identical. As a result, readers of the handbooks may recognize similarities among the four volumes.

This handbook, Volume I, details the procedures necessary to conduct within statutory requirements a public auction sale that requires the physical presence of bidders, pursuant to Chapter 7, Part 6, Division 1, of the Revenue and Taxation Code. Unless otherwise indicated, all statutory references cited are from the Revenue and Taxation Code.

## Section 2: Public Auction Overview

The material in this handbook is intended to provide an in-depth, step-by-step explanation of the procedures and processes necessary to conduct a public auction tax sale.

The purpose of offering tax-defaulted property at a tax sale is to collect the unpaid taxes (redemption) and to return the property to a revenue-generating status by conveying the property to another owner.

Because a successful auction deprives a person of property ownership, specific procedural requirements have been legislated to ensure that individuals are afforded consistent and appropriate opportunities to retain their property. Legislation has also been enacted to give counties the authority to initiate responsive measures should property owners fail to meet their property tax obligations. The general logistics concerning the sale of a property that has become tax-defaulted are as follows:

- When a property owner fails to pay his or her property tax by the final due date and becomes tax-delinquent, the tax collector sends the property owner, or assessee, a notice of impending default, followed by a declaration of default if the delinquency is not cured. The declaration of default opens a waiting period, during which the defaulted taxes, penalties, and costs accumulate until redeemed.
- At the end of this period, if the taxes remain unredeemed, the tax collector has the power to sell the property. If the property is residential or farmland, the waiting period is five years. If the property is nonresidential commercial property, the waiting period is three years. If your county board of supervisors has, by resolution or ordinance, opted out of the three-year provisions for commercial property, the waiting period is five years. Property may also be eligible for sale after three years if a nuisance abatement lien has been recorded against the property, or if a qualified public agency or nonprofit organization has identified a property it needs for low-income housing and has sent a completed application to the county.
- Before the sale, the tax collector is required to notify the assessee and any other parties of interest of the tax collector's power and intent to sell the property for nonpayment of taxes. The property must meet specific conditions to qualify for sale at an auction.

Only after all of the statutory requirements are met can the tax collector exercise his or her authority to sell the property. The sale must be conducted no sooner than 45 days after notification by certified mail of all ascertainable recorded parties of interest.

Upon completion of the sale, the tax collector must file reports with the county recorder and the assessor to address the transfer of title and the distribution of sale proceeds. The tax collector must also be prepared to submit, upon request, a report to the State Controller's Office on the disposition of all parcels. For one year following the sale, the tax collector must respond to challenges to the validity of the sale and excess proceeds claims.

## Section 3: Significant Factors Timeline

The timeframes for each of the significant factors are given in ranges rather than in fixed increments. For many significant factors, the range boundaries listed are suggested upper and lower cutoff points from which certain tasks should begin. For the significant factors that are bolded and followed by an asterisk, the later cutoff point is the deadline to *complete* the task, rather than a suggested time to begin. It is important not to miss these cutoff points, because they are, in most cases, statutory deadlines.

Begin Preparing the Files	180 - 120 days prior to the sale
Preparing the List of Parcels	170 - 105 days prior to the sale
Determining Parcel Descriptions and Existing Conditions	155 - 90 days prior to the sale
Establishing the Minimum Selling Prices	140 - 80 days prior to the sale
Requesting Approval from the Board of Supervisors	130 - 70 days prior to the sale
<b>Notice to Taxing Agencies</b> Notice may also be sent to nonprofit organizations	<b>120 - 51 days*</b> prior to the sale
<b>Notification of Sale to the State Controller</b>	<b>120 - 45 days*</b> prior to the sale
<b>Searching for Parties of Interest</b>	<b>120 - 45 days*</b> prior to the sale
<b>Notice to Parties of Interest</b>	<b>120 - 45 days*</b> prior to the sale
<b>Making Personal Contacts</b>	<b>120 - 10 days*</b> prior to the sale
<b>Notice to the IRS</b>	<b>45 - 25 days*</b> prior to the sale
<b>Publishing/Posting the Notice of Sale</b>	<b>120 - 21 days*</b> prior to the sale
<b>Conducting the Sale</b>	<b>Day of the sale*</b>
<b>Report to the Assessor</b>	<b>Day of the sale to 10 days*</b> after the sale
<b>Report to the Auditor and the Treasurer</b>	<b>Day of the sale to 10 days*</b> after the sale
<b>Mailing the Notice of Excess Proceeds</b>	<b>Day of the sale to 90 days*</b> after the sale
<b>Publishing the Notice of Excess Proceeds</b>	<b>Day of the sale to 90 days*</b> after the sale

Preparing the Tax Deeds

Day of the sale to 60 days after the sale

Distributing the Proceeds

Commencing one year after the date of the sale

Each of the *statutorily required* events contained in the above timeline is also listed on the Checklist of Mandatory Requirements – Public Auction (form PAF-1) on page 5.

## CHECKLIST OF MANDATORY REQUIREMENTS PUBLIC AUCTION

RESOLUTION/SALE NO. \_\_\_\_\_

DATED \_\_\_\_\_

The following requirements should be fulfilled to lawfully initiate, process, conduct, and complete a tax sale by public auction under Part 6 of the *Revenue and Taxation Code*.

- ☐ Obtaining a document showing approval of sale by the county board of supervisors (§3694 and §3698)
- ☐ Mailing the Notice to the Board of Supervisors to each taxing agency. The Notice may also be mailed to each nonprofit that has requested notification (§3700).
- ☐ Mailing a Notice of Sale to the State Controller's Office (§3700.5)
- ☐ Mailing a Notice of Sale to each owner and party of interest (not less than 45 nor more than 120 days before the proposed date of sale) (§3701)
- ☐ Contacting, in person, each owner-occupant of property that is the primary residence of the last known assessee within a period of not more than 120 days nor less than 10 days prior to the date of sale. If contact in person is not possible, posting a notice on the property not less than five days prior to the date of sale (§3704.7).
- ☐ Publishing a Notice of Sale in a newspaper of general circulation (the first publication shall be started not less than 21 days nor more than 60 days prior to the effective sale date) (§3702)
- ☐ Recording a Tax Deed to the Purchaser of Tax-Defaulted Property conveying title to the purchasing agency or entity and mailing a duplicate copy to the State Controller's Office (§§3708, 3708.1, and 3708.5)
- ☐ Submitting a Report of Sale to the county assessor and the auditor (§3716)
- ☐ Notating the facts of the sale on the delinquent roll (abstract) and the current roll (§3715.5)

\*All code section citations pertain to the Revenue and Taxation Code.

**Note:** Address all items mailed to the State Controller's Office as follows:

State Controller's Office/Division of Collections  
Bureau of Tax Administration  
Property Tax Collection Standards and Procedures  
P. O. Box 942850  
Sacramento, CA 94250

**PAF-1 (SCO 8-04.1)**

## Section 4: Preparing the Files

### 180 - 120 days prior to sale

Because numerous steps are involved in preparing, conducting, and completing a public auction sale, the process should be started between 180 and 120 days prior to the sale date.

The State Controller's Office recommends that you begin as close to the 180-day mark as possible, especially if you anticipate a large number of parcels, to allow for any unforeseen delays in completing one or more of the procedures. Allowing sufficient time is important because several procedures have statutory timelines, and delays may lead to an invalidation of the tax sale.

At the same time, you are under no obligation to begin or complete any procedure within the timelines recommended in this handbook *unless the procedure and the accompanying timeline are prescribed in the Revenue and Taxation Code*.

**Step 1:** Establish the date on which the public auction will take place.

**Step 2:** Locate the database in your office that contains a list of parcels within the county that are tax-defaulted and are subject to the tax collector's power to sell (§3691).

Note: The minimum period of time before nonresidential commercial property can be sold is three years, unless your county has opted out; in that case, the minimum period is five years. Residential property and farmland may be sold after five years. Nuisance abatement property may be sold after three years (§3691).

Also, for any parcel located in an officially declared disaster area, the power-to-sell status may be tolled or suspended. Refer to Appendix IV, page 73, Calculating the Power of Sale Schedule for Disaster-Damaged Property.

**Step 3:** Determine the total number of properties listed.

**Step 4:** Document all developments during preparation and completion of the public auction, and organize the documents in separate file folders for each parcel. For your convenience, the State Controller's Office has designed a sample form to assist in recording and tracking important items (see form PAF-2 on page 8). ***We recommend that you use this form.*** However, if your office already has a tracking system in place, you may continue to use it.

**Step 5:** Each parcel file should include, in addition to the tracking form, all of the following items as they become available.

- 1) Assessor's parcel map
- 2) Copy of the Notice of Power to Sell
- 3) Copy of the tax collector's Request for Approval from the board of supervisors
- 4) Copy of the board's approval acknowledgment
- 5) Copy of the Notification of Sale to the State Controller's Office
- 6) Copy of the notice to last assessee and parties of interest
- 7) Parties-of-interest information
- 8) Copy of the published or posted Notice of Sale
- 9) Copy of the affidavit of publication or posting
- 10) Notices returned by the post office as undeliverable, if any
- 11) Registered or certified letter receipts
- 12) Copy of the report of sale
- 13) Copy of the tax deed to the purchaser
- 14) Any correspondence and other documents related to the parcel

**Step 6:** Upon completion of the preparation file for each parcel, proceed to **Section 5: Preparing the List of Parcels to Be Offered for Sale**, page 9.

## TAX COLLECTOR'S RECORD OF SALE OF TAX-DEFAULTED PROPERTY

Date of Sale \_\_\_\_\_ Time \_\_\_\_\_

Assessor's Parcel Number (APN) \_\_\_\_\_

1. Vesting deed recorded in book \_\_\_\_\_ page \_\_\_\_\_, on \_\_\_\_\_, \_\_\_\_\_
2. Tax-defaulted \_\_\_\_\_, \_\_\_\_\_ for taxes of \_\_\_\_\_, default number \_\_\_\_\_
3. Property became subject to sale \_\_\_\_\_, \_\_\_\_\_, recorded on \_\_\_\_\_  
in book \_\_\_\_\_ at page \_\_\_\_\_
4. Name(s) and last known address(es) of parties of interest \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. Minimum bid \$ \_\_\_\_\_
6. Application to board \_\_\_\_\_, \_\_\_\_\_. Board approval \_\_\_\_\_, \_\_\_\_\_
7. Notice of Sale mailed to State Controller's Office \_\_\_\_\_, \_\_\_\_\_
8. Resolution mailed to taxing agency \_\_\_\_\_, \_\_\_\_\_
9. Objection filed \_\_\_\_\_, \_\_\_\_\_
10. Advertised \_\_\_\_\_, \_\_\_\_\_; \_\_\_\_\_, \_\_\_\_\_; \_\_\_\_\_, \_\_\_\_\_  
Shown as item \_\_\_\_\_ in (name of publication). Cost of advertising \$ \_\_\_\_\_
11. Notice mailed to parties of interest \_\_\_\_\_, \_\_\_\_\_, returned \_\_\_\_\_, \_\_\_\_\_
12. Personal contact \_\_\_\_\_, \_\_\_\_\_. Cost of making contact \$ \_\_\_\_\_
13. Sold for \$ \_\_\_\_\_, to \_\_\_\_\_ (name and address)
14. Deed issued \_\_\_\_\_, \_\_\_\_\_ Recording fee \$ \_\_\_\_\_ Transfer tax \$ \_\_\_\_\_
15. Recorded in book \_\_\_\_\_, page \_\_\_\_\_, on \_\_\_\_\_, \_\_\_\_\_
16. Deed mailed \_\_\_\_\_, \_\_\_\_\_, to \_\_\_\_\_
17. Notice to treasurer, auditor, assessor \_\_\_\_\_, \_\_\_\_\_
18. Proceeds of sale deposited in treasury \_\_\_\_\_, \_\_\_\_\_

PAF-2 (SCO 8-01)



## Section 5: Preparing the List of Parcels to Be Offered for Sale

170 - 105 days prior to sale

As you prepare a list of parcels to be offered for sale, many factors can influence or affect the condition of a property. In some cases, these factors can change the condition of a parcel such that it becomes ineligible for sale, even during the final weeks or days before the sale.

### Existing Parcel Conditions

The key to developing and managing the list of parcels is to ensure that none of the parcels have any disqualifying conditions at the time of the sale. This does not mean that the parcels require constant monitoring for all possible conditions during the sale preparation. It *does* mean that, aside from a few specific conditions that should be determined at the outset, you must address disqualifying conditions as they become known during preparation for the sale.

If any such conditions are discovered, remedy the situation or withdraw the parcel from the sale. Appendix I, pages 65-67, describes conditions that can disqualify a parcel from being offered at public auction and explains how to remedy those conditions, if possible.

**Step 1:** Determine whether the following conditions exist for each parcel.

- 1) **Bankruptcy** – Parcel files may be flagged with information about bankruptcy proceedings. If the files are not flagged or the information is not current, do not conduct any further research on the bankruptcy status until the parties-of-interest search is begun or until notification of a bankruptcy is received from the assessee.
- 2) **Unprobated Property** – If the file for a particular parcel contains any returned letters showing that the assessee is deceased, follow up with the county public administrator to determine if probate of the decedent's estate has begun. See page 67 for more information.
- 3) **Contaminated Property** – The State Controller's Office recommends asking the environmental health and safety agency to review the list of parcels to determine if any are or may be contaminated.
- 4) **Damaged Property** – If a property has sustained damage, determine whether the cause was related to a county, state, or federally declared disaster. Your office may have files or records containing this information, including dates and locations. If not, you may obtain the information by calling the Governor's Office of Emergency Services (OES), Disaster Assistance Office, at (916) 845-8100 or by sending a fax to (916) 845-8388. The OES Web site address is [www.oes.ca.gov](http://www.oes.ca.gov).

- 5) **Cemetery Property** – If the property is a known cemetery, determine whether it falls under the requirements of Health and Safety Code Section 8585. You may obtain this information by contacting the Department of Consumer Affairs, Cemetery and Funeral Bureau at (916) 574-7870. The Web site address is [www.cfb.ca.gov](http://www.cfb.ca.gov).

Note: A cemetery under a historical society's jurisdiction is exempt from any requirements under Health and Safety Code Section 8585.

**Step 2:** If any of the conditions above exist, proceed according to the appropriate instruction below.

- 1) **Bankruptcy** – If the assessee has filed bankruptcy proceedings, the parcel **cannot be sold**. However, an opportunity may exist to remedy the situation before the date of the sale (see item 4 on page 65). In the interim, you may continue to prepare the parcel for sale up until the date of the public auction, as outlined in this handbook, including notifications.
- 2) **Unprobated Property** – Parcels for which the assessee is deceased and no probate has commenced **cannot be sold**. However, an opportunity may exist to remedy the situation before the date of the sale (see item 9 on page 67).
- 3) **Contaminated Property** – Parcels that are on the Superfund list, if any, should be removed from the sale. Contaminated parcels not on the Superfund list may be offered for sale, but information about the contamination should be disclosed to prospective buyers.

Note: The tax collector's office may have a file containing Superfund list information for your county. If not, contact the Department of Toxic Substances Control (DTSC) at 1001 I Street, Sacramento, CA 95814. DTSC's telephone number is (916) 323-3400, and its Web site address is [www.dtsc.ca.gov/sitecleanup](http://www.dtsc.ca.gov/sitecleanup). The federal Environmental Protection Agency's Web site is at [www.epa.gov/region09/waste](http://www.epa.gov/region09/waste).

- 4) **Damaged Property** – If a tax-defaulted property has sustained damage due to a local, state, or federally designated disaster, the default status is suspended (tolled) for a period of up to five years. During this tolled period, the tax collector's power of sale cannot arise, and the property is ineligible for sale (§3691). However, if and when the damage is substantially repaired or after five years from the date of damage, whichever comes first, the tolled period ends and the default status resumes. (See page 73 for a method for calculating the default and the power-to-sell schedule for a disaster-damaged property.)

If you have questions on the tolling period or a specific situation, please contact the State Controller's Office, Property Tax Collection Standards and Procedures Program, at (916) 322-3918 or by e-mail at [propertytax@sco.ca.gov](mailto:propertytax@sco.ca.gov).

## Review Completion

Upon completion of this review, proceed to **Section 6: Determining Parcel Descriptions and Existing Conditions**, page 11.

## Section 6: Determining Parcel Descriptions, Exemptions, and Tax Sale History

### 155 - 90 days prior to sale

Once you have compiled a list of parcels eligible to be offered at auction, the next task is to secure approval to sell them from the county board of supervisors.

To obtain sale approval from the board, you must assemble and submit a request package. This package must include a description of and a minimum selling price for each parcel, as prescribed in §3698. To properly determine the sale price, several preliminary steps must be initiated, as outlined in the following subsections.

#### Property Description

- Step 1:** Obtain the legal description for each parcel. The Assessor's Parcel Number (APN) is sufficient to meet this requirement.
- Step 2:** Transfer the legal description and/or APN of each parcel into its tracking file. This information is required when requesting approval from the board of supervisors to sell tax-defaulted property.

#### Existing Exemptions

##### Homeowner's Exemption/Situs

- Step 1:** From the appropriate file(s), identify all parcels that have a valid homeowner's exemption. Flag this information in the applicable parcel's tracking file. If a homeowner's exemption does not appear, check the appropriate records to determine whether the last tax bill's mailing address and the situs are the same.
- Step 2:** Make a note of each parcel that has a valid homeowner's exemption and/or a situs that is the same as the mailing address on the last tax bill. Later in the process, the note will act as a reminder to conduct a personal contact visit *in addition* to sending the Notice to Parties of Interest.

##### Welfare Exemption

- Step 1:** From the appropriate file(s), identify all parcels that have a valid welfare exemption. Flag this information in the applicable parcel's file.
- Step 2:** Mark each parcel's file accordingly for the welfare exemption status and the fair market value. Request that the assessor determine the fair market value (§3698.7(a)(1)).

## **Tax Sale History**

### **Parcels Offered for Sale at a Previous Tax Sale**

- Step 1:** Determine whether any parcel has been offered at a previous tax sale. Additional research may be required to verify this information.
- Step 2:** Make a note in each parcel's tracking file indicating whether the parcel has been previously offered for sale.

## **Consolidation of Information**

The following information should be available in each parcel's file.

- 1) Legal description
- 2) Whether there exists a homeowner's exemption or a condition in which the mailing address for the last tax bill is the same as the situs
- 3) Whether a welfare exemption exists
- 4) Whether the parcel has been offered at a previous sale

## **Review Completion**

Verify that each parcel file contains this information, then proceed to **Section 7: Establishing the Minimum Selling Prices**, page 13.

## Section 7: Establishing the Minimum Selling Prices

140 - 80 days prior to sale

Once you have completed the preliminary review of the parcels, determine the minimum selling price for each, pursuant to §3698.5. This is the final task leading up to the request for approval by the board of supervisors to sell the parcels at public auction.

**Step 1:** Organize the parcels by type, using the following three categories:

- Category A – Parcels that have not been previously offered at a tax sale and do not have a welfare exemption and
- Category B – Parcels that have been previously offered at a tax sale and not sold, and do not have a welfare exemption
- Category C – Parcels with a welfare exemption

**Step 2:** Begin with the parcels in Category A. The minimum selling price must be at least the sum of the following amounts, pursuant to §3698.5(a)(1):

- 1) All unpaid defaulted taxes
- 2) Delinquent penalties and interest
- 3) Redemption penalties
- 4) Redemption fee (\$15) ((§4102)(d))
- 5) Additional costs, as described in §3704.7(c), §4112(a) and (b), §4672, §4672.1, §4672.2, §4673, and §4673.1(b), which include:
  - a) A minimum of \$35 for the cost of obtaining the names and addresses of parties of interest and for mailing notices to these entities for each parcel, pursuant to §4112(a)(1). If the cost exceeds \$35, the charge can be increased by the board of supervisors to reflect actual and indirect costs. For similar items, the charge may be established by calculating the average total cost rather than the total cost of each item (Government Code Section 54985(a)).

NOTE: Only indirect costs specified in the federal Office of Management and Budget Circular A-87 on January 1, 1984, may be included (Government Code Section 54985(a)).

All of the above-referenced costs and any increases for fee amounts should be reflected in your office fee schedule, which, if necessary, is annually adjusted by the county board of supervisors.

- b) \$6, pursuant to §4112(a)(2). This cost references a required fee for recording any notice by a county, pursuant to Government Code §27361.3. If the cost has increased, the current rate may be applied.
- c) \$1.50 State fee (§4672)
- d) \$150 county fee (§4112.(a)(3))
- e) Publication cost. This cost must be estimated, because the publication notice takes place several procedures after the minimum selling price is established (§4673).
- f) Up to \$100 for each parcel that is a primary residence for the last known assessee (§3704.7(c)). Indicators of this condition include:
  - A valid homeowner's exemption
  - Any evidence showing that the mailing address on the tax bill is the same as the situs (§3704.7). This information should be available from previous research; see **Section 6: Determining Parcel Descriptions and Existing Conditions**, page 11.

**Step 3:** After completing the calculations for the parcels in Category A, do the following:

- *If any parcels meet the criterion for Category B*, proceed to Step 4.
- *If **no** parcels meet the criterion for Category B*, proceed to Step 5.

**Step 4:** For parcels that meet the Category B criterion, complete the calculations using one of the following options:

- The tax collector, with the approval of the board of supervisors, may offer the parcels at less than the required minimum selling price. The tax collector may set the minimum price that he or she deems appropriate (§3698.5(c)). This option is usually exercised when it is apparent that the market value of a parcel is substantially less than the sum of the standard minimum bid amount outlined in §3698.5(a).
- The tax collector may offer the parcels at the standard minimum price as calculated in Step 2 above (§3698. 5(a)).

**Step 5:** After completing the calculations for the parcels in Category B, or if directed to this step from Step 3, do the following:

- *If any parcels meet the criterion for Category C, proceed to Step 6.*
- *If **no** parcels meet the criterion for Category C, proceed to Step 7.*

**Step 6:** For parcels that meet the Category C criterion, refer to the Appendix section entitled Establishing the Minimum Selling Price – Welfare Exemption, page 70, for the pricing procedure.

**Step 7:** Once you have established the minimum selling prices for all of the parcels being offered, proceed to **Section 8: Requesting Approval from the Board of Supervisors**, page 16.

## Section 8: Requesting Approval from the Board of Supervisors

### 130 - 70 days prior to sale

Once you have established the minimum selling price for each parcel, the next step is to obtain the county board of supervisors' approval for the public auction sale (§3694).

**Step 1:** Prepare a request form. The State Controller's Office has designed a sample request form and a template list (see forms PAF-3A and 3B on pages 17 and 18, respectively). ***We recommend that you use these forms.*** However, if your office has existing forms, you may continue to use them.

The request form must contain the following required information, pursuant to §3698:

- 1) A statement describing the tax collector's intention to sell parcels that are subject to sale and the type of sale (see form PAF-3A on page 17)
- 2) A description of each parcel to be offered for sale, including the associated Assessor's Parcel Number (APN)
- 3) The minimum selling price for each parcel

**Step 2:** Contact the board of supervisors to schedule a date to submit the request form.

**Step 3:** Submit the request. The board of supervisors may either approve or reject the proposed sale (§3694). Once the request has been approved, the board may not add items to the list of properties approved for sale or rescind its approval (Attorney General Letter NS2286; see page 100 for complete text).

Note: The request form may include a request for approval to re-offer, at a lower minimum bid amount, any parcel that does not sell, pursuant to §3698.5(c) and §3692(e). However, if the parcel has a welfare exemption, ***it may be re-offered only at the next scheduled public auction*** (§3698.7(c)).

**Step 4:** After receiving the list of approved parcels from the board, ensure that the board retains one copy, and keep one copy for your records.

**Step 5:** Proceed to **Section 9: Notice to Taxing Agencies**, page 19.



**REQUEST FOR APPROVAL TO SELL TAX-DEFAULTED PROPERTY  
SUBJECT TO THE POWER OF SALE**

(Date)

To the Honorable Board of Supervisors

\_\_\_\_\_ County, State of California

Your approval to sell \_\_\_\_\_ (at public auction ) \_\_\_\_\_, for the stated minimum price, the tax-defaulted property that is subject to the power of sale and described on the attached schedule, in accordance with Chapter 7 of Part 6 of Division 1 of the California *Revenue and Taxation Code*, is respectfully requested. Also, in the event that any parcel does not sell, I respectfully request your approval to re-offer that parcel at a reduced minimum price.

\_\_\_\_\_  
Tax Collector

By \_\_\_\_\_  
Deputy

**APPROVAL BY BOARD OF SUPERVISORS**

Pursuant to the above notice and request, approval for said sale is hereby granted. The tax collector is directed to sell the property described in said Notice as provided for by law pursuant to Chapter 7 of Part 6 of Division 1 of the California *Revenue and Taxation Code*.

The foregoing was approved by the Board of Supervisors of \_\_\_\_\_ County,  
the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
Clerk of the Board of Supervisors

By \_\_\_\_\_  
Deputy

(seal)

Date: \_\_\_\_\_, \_\_\_\_\_

**PAF-3A (SCO 8-02)**

# **AUTHORIZATION AND REPORT OF SALE**

With approval of the Board of Supervisors, by resolution \_\_\_\_\_ dated \_\_\_\_\_, the property listed below was offered for sale at (public auction)/(sealed bid), on \_\_\_\_\_, and was disposed of as follows.

Item	APN Last Assessee Minimum Bid (\$3698)	Default No. Year Def. Notice Rec. Data	Sale Price (\$3718(a))	Adv. Cost (\$4673)	Recording Fee (\$3718(d), 4112)	Sales Fees		Cost of Notice (\$4672.2)	Redemption Amount (\$4102, 4103)	Current Taxes (\$4673.1(b))	Excess Proceeds (\$4674)	Deed Issued to: Date of Deed (if not sold, give reason)
						State (\$4672)	County (\$4672.1)					
1.	324-023-01; 02-0512 House, Joseph Y. and Betty A. Min. Bid: \$5100.00	(2) 15790; 78-90 2570/943	(3) 7,750.00	(4) 25.00	(5) 9.00	(6) 1.50	(7) 150.00	(8) 35.00	(9) 6,000.00	(10) 1,200.00	(11) 329.50	(12) Jensen, Donald P. and Mary D. (5/15/76) Book: 1223 Page: 421 Inst. No.: 86-1234
If not sold, give reason. For example: 1. No bids received. 2. Objection of taxing agency. 3. Redeemed on _____ 4. Other (specify) _____												
BOARD OF SUPERVISORS' APPROVAL												

PAF-3B (SCO 8-03)

## Section 9: Notice to Taxing Agencies

### 120 - 51 days prior to sale

You must deliver tax sale information to each taxing agency. You must also forward tax sale information to each nonprofit organization that has submitted to the tax collector a written request for notification within one year prior to the next scheduled tax sale or prior to July 31 of the current calendar year (§3700). This information allows the agencies and nonprofit organizations time to review the parcels slated for sale and determine if they need to object to the sale of a particular parcel.

A taxing agency is defined as a state, county, city, or district that assesses property for taxation purposes and levies taxes or assessments on the assessed property (§121). A taxing agency may object to the sale of a parcel when it wants to either purchase the parcel for a public purpose or preserve its lien on the parcel. For a description of the types of agencies and organizations that might object and the types of objections they may make, see pages 20-21.

The State Controller's Office recommends that you send the notices as soon as possible. Mail or deliver the notices to the clerk or secretary of the governing board of each taxing agency at least 30 days before the first publication of the Notice of Sale (§3700). Further, as described on page 33, the Notice of Sale publication must begin at least 21 days prior to the sale date (§3702). Therefore, you must notify the taxing agencies **at least 51 days** prior to the tax sale date.

However, it is recommended that you mail the notices more than 51 days before the sale, to allow for unforeseen delays that may cause you to miss the deadline, resulting in possible invalidation of the sale for the selected date.

Note: It is possible to proceed with the publishing or posting without waiting 30 days if written consent is on file from each taxing agency (§3700).

- Step 1:** Obtain a listing of the taxing agencies in your county. If your office does not have an existing file identifying agency names and mailing addresses, contact the county auditor or the city clerk for a listing. A listing of the nonprofit organizations that have requested notification may also be created.
- Step 2:** Send one copy of the following materials to each taxing agency in your county. A copy may also be sent to each nonprofit organization.
- 1) The board of supervisors' approval notice
  - 2) A list of all parcels approved for public auction
- Step 3:** After mailing or delivering the above items to the taxing agencies, proceed to **Section 10: Notification of Sale to the State Controller**, page 22.

## Objections to the Sale

During the time remaining before the date of the first Notice of Sale publication, watch for any objection letters sent to your office. Objections to the sale may be received from the following agencies, for the reasons listed below.

### Type of Agency

- 1) **Taxing Agency That Is Not Also a Revenue District** – This includes the State, counties, and any district that formulates its own assessment of property for taxation purposes and levies taxes or assessments on property (§121 and §3695).
- 2) **Taxing Agency That Is Also a Revenue District** – This includes every city, as well as any district for which county officers assess property and collect taxes or assessments (§122 and §3695).
- 3) **Nonprofit Organization** – With regard to purchasing tax-defaulted property by agreement sale, a nonprofit organization qualifies if the organization is dedicated to the express purpose of acquiring single-family dwellings for rehabilitation and sale or rental as low-income housing, or acquiring vacant land for public use (§3695.5 and §3772.5).

Note: If a taxing agency, regardless of whether it is also a revenue district, does not object to a sale prior to the sale date, its liens are cancelled and the agency is then entitled to its share of the proceeds deposited in the delinquent tax sale trust fund (§3695 and §3712(b)).

### Type of Objection

- 1) **Objection Solely to Preserve a Lien** – Only a taxing agency that *is not* also a revenue district may file this type of objection. The objection must be registered before the date of the public auction and serves only to preserve the agency's lien, as defined in §3712, on a parcel that is sold by public auction. The tax collector is not required to withdraw the parcel from the sale.

Note: Because this type of objection does not require the parcel to be withdrawn from the sale, the statutory deadline to make such an objection is the last day prior to the tax sale. (§3695)

- 2) **Objection to Purchase a Parcel as an Option to Preserve a Lien** – Only a taxing agency that *is not* also a revenue district may file this type of objection. The objection must be registered before the date of the public auction. It allows the agency to purchase the property and sell it on its own in order to recoup the lien, rather than preserving the lien and attempting to recover payment from the new owner. This objection requires the tax collector to withdraw the parcel from the sale. Refer to the *County Tax Sale Procedural Manual, Volume III: Agreement Sale*, for comprehensive procedures.
- 3) **Objection to Purchase a Parcel as a Requirement to Preserve a Lien** – Only a taxing agency that is also a revenue district may file this type of objection. The objection must be registered before the date of the public auction. It requires the agency to purchase the property if the recovery of the lien through excess proceeds is not desired. This objection requires the tax collector to withdraw the parcel from the sale. Refer to the *County Tax Sale Procedural Manual, Volume III: Agreement Sale*, for comprehensive procedures.

- 4) **Objection to Purchase a Parcel for Public Use Pursuant to §3695.4** – Any eligible taxing agency, revenue district, redevelopment agency or special district may file this type of objection. The objection, along with an application to purchase in accordance with Chapter 8 (commencing with Section 3771) for any property that is or may be needed for public use, must be completed and registered before the date of the first publication of the Notice of Sale. If the State, a city, a taxing agency, a revenue district, or a special district files an objection and application in compliance with this section, the tax collector shall not proceed with the sale of the subject property. Refer to the *County Tax Sale Procedural Manual, Volume III: Agreement Sale*, for comprehensive procedures.
- 5) **Objection to Purchase a Parcel for Low-Income Use or Preserving Open Space Pursuant to §3695.5** – Only a nonprofit organization as defined in §3772.5(b) may file this type of objection. The objection must be registered before the date of the first publication or posting of the notice of intended sale pursuant to §3702 and §3703. If the nonprofit organization files an objection and application in compliance with this section and with any conditions of sale established pursuant to all appropriate Chapter 8 tax sale provisions of the Revenue and Taxation Code, the tax collector may not proceed with the sale of the property. Refer to the *County Tax Sale Procedural Manual, Volume III: Agreement Sale*, for comprehensive procedures.

## Section 10: Notification of Sale to the State Controller

120 - 45 days prior to sale

The tax collector must send notice of a proposed public auction tax sale to the State Controller's Office. This notification must be sent not less than 45 days nor more than 120 days before the proposed sale and must contain the date, time, and place of the proposed sale (§3700.5).

The notification should include the number of parcels being offered at the sale. The State Controller's Office posts this information on its Web site, at <http://www.sco.ca.gov/col/taxinfo/tcs/index.shtml>.

If the sale is postponed for any reason, the tax collector must notify the State Controller's Office of the postponement and of the new date, time, and place of the sale (§3700.5).

**Step 1:** Prepare the notice. The State Controller's Office has designed a sample notice (see form PAF-4 on page 23). ***We recommend that you use this sample notice.*** If your office has an existing form, you may continue to use it. Note, however, that the notice must contain the same information fields as those on form PAF-4.

**Step 2:** Notify the State Controller. You may submit the notification by any of the following methods.

1) Send a letter to:

State Controller's Office/Division of Collections  
Bureau of Tax Administration  
Property Tax Collection Standards and Procedures  
P.O. Box 942850  
Sacramento, CA 94250-5880

2) Fax the State Controller's Office at (916) 324-0593.

3) Send notification by e-mail to [propertytax@sco.ca.gov](mailto:propertytax@sco.ca.gov).

**Step 3:** Upon completion, proceed to **Section 11: Searching for Parties of Interest**, page 24.

## CHAPTER 7 NOTIFICATION

Pursuant to Revenue and Taxation Code §3700.5: “Not less than 45 days nor more than 120 days before the proposed sale, the tax collector shall send notice of the proposed sale to the Controller.”

County: \_\_\_\_\_

Type of Sale (Mark One): Public Auction      Sealed Bid

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Location: \_\_\_\_\_

\_\_\_\_\_

Number of Parcels Offered: \_\_\_\_\_

Who to Contact for Further Questions: \_\_\_\_\_

Phone Number:(     ) \_\_\_\_\_ - \_\_\_\_\_

Please notify the State Controller’s Office in writing of any changes or postponements of the tax sale date, time, or location.

**PAF-4 (SCO 8-04.1)**

## Section 11: Searching for Parties of Interest

### 120 - 45 days prior to sale

Once you have received the board's approval to sell the property and have sent notices to taxing agencies, begin the process of notifying the parties of interest.

The preliminary task consists of researching, for each parcel, the identities of all individuals or entities considered a party of interest, as defined in §4675. This procedure is usually the most complex and can be the most time-consuming of the entire tax sale process. Therefore, the timeframe selected to complete this procedure should depend on both the number of parcels to be offered and the method used to conduct the research.

The State Controller's Office has determined that, in most cases, this procedure can be completed within the parties-of-interest notification period prescribed in §3701, which is from 45 to 120 days before the actual sale date.

However, while this 75-day allotment may be sufficient for most counties to complete both the parties-of-interest search and the notification, counties offering a large number of parcels may require more time to conduct the parties-of-interest search. These counties may need to begin research up to seven months before the sale date, even with the assistance of an outside research agency.

Conversely, counties that annually conduct tax sales of a moderate or small number of parcels are usually able to start research 70 to 90 days before the actual sale date and complete it in time. Using an outside research agency may further reduce this timeframe.

Establish an appropriate schedule that allows your county to properly complete the necessary research in order to generate the parties-of-interest notification within the timeframe prescribed in §3701.

Revenue and Taxation Code §3701 specifically states that counties must make a reasonable effort to obtain the names and addresses of all parties of interest and notify those parties by certified mail to their last known address, if available, not less than 45 days nor more than 120 days before the proposed sale date.

**Note: Parties of interest are defined as lienholders of record and any persons with title of record to all or any portion of the property prior to the recordation of the tax deed to the purchaser (§4675).**

**Step 1:** Begin the search for parties of interest by identifying the names and last known addresses of all the parties of interest for each parcel. Use one of or a combination of the following methods.

#### 1) **Research Consultant**

Hiring a research consultant is the most common method employed by counties. It involves contracting with an agency that locates lienholders or parties of interest in real property. Research agency reports tend to be moderately expensive, but they provide a comprehensive listing of all parties of interest on record.



## 2) Title Company

This option involves the purchase of a litigation guarantee, which provides information sufficient to determine the parties of interest. Title company reports can be very expensive and take some time to generate.

Note: Although these methods can save a substantial amount of research time, in each instance in which a parcel does not sell, the money spent for the information cannot be immediately recouped. The cost can be added to the redemption fee, but the county may not collect the money until the parcel is redeemed or purchased through a tax sale. With this in mind, the following method may be a viable alternative or complement to the methods described above.

## 3) In-House Research

The following conditions may favor in-house research over contracting out.

- *If the parcel has been offered at a previous tax sale*, an extensive list of parties of interest in the file may already exist. Although the list may not be up-to-date, the fact that it exists may justify conducting in-house research rather than purchasing another report.
- *If the parcel has not sold after being offered at several previous sales*, it may not be prudent to spend additional public funds on reports for the parcel; in this case, in-house research may be the best alternative.

Following is a general description of an in-house parties-of-interest search.

Initially, the analysis involves updating existing parties-of-interest lists or, when a list is absent, updating from a point in the past at which all parties of interest are definitively known. Once that date is known, a search is conducted for any updated information that may have been recorded about the parcel from the current year back to the point at which the analysis was begun.

Note: Additional information and training on conducting a parties-of-interest search are available through the State Controller's Office. To request a training workshop, call or e-mail the State Controller's Office, Property Tax Collection Standards and Procedures Program, at (916) 322-3918 or [propertytax@sco.ca.gov](mailto:propertytax@sco.ca.gov).

**Step 2:** Once you have identified all the parties of interest for each parcel, proceed to **Section 12: Notice to Parties of Interest**, page 26.

## Additional Notification Considerations

If, during research, you discover an Internal Revenue Service lien, notify the IRS of the pending sale not less than 25 days prior to the date of the sale (USC Internal Revenue Code Section 7425(c)). The specific procedures are outlined on page 32. At this stage, however, document the lien in the parcel file so it will already be tagged when the time comes to execute the procedure.

## Section 12: Notice to Parties of Interest

120 - 45 days prior to sale

Once you have compiled a list of parties of interest for each parcel, begin the last phase of the notification process. This involves mailing a notice to each party's last known address.

As described previously, you must mail a notice to any lienholder of record and any person with title of record for all or any portion of the property that is scheduled to be offered at a tax sale. The notice must be sent by registered or certified mail (with return receipt requested), not less than 45 days nor more than 120 days before the date of the proposed sale (§3701). Usually, notices are mailed right before the 45-day deadline, due to the possibility of last-minute changes to the condition of a parcel that would nullify the need to send out a notice.

**Step 1:** Prepare the notice. The State Controller's Office has designed a sample notice (see form PAF-5 on page 28). ***We recommend that you use this notice form.*** However, if your office has an existing notice, you may continue to use it.

The notice must contain the following information, pursuant to §3701.

- 1) The date, time, and location of the public auction
- 2) The amount required to redeem the property

Note: This is the original amount required for the assessee to redeem the property—not necessarily the minimum bid amount.

- 3) A statement describing the right to redeem up to the tax collector's office close-of-business time on the last business day prior to the date of the sale
- 4) Information regarding the right to claim excess proceeds if the property is sold, as defined in §4672

**Step 2:** Determine whether any parcel requires a personal contact.

- *If a parcel requires a personal contact*, proceed to **Section 13: Notice to Assessee by Personal Contact**, page 29.
- *If no parcel requires a personal contact*, proceed to Step 3.

**Step 3:** Determine whether an IRS lien exists on any parcel.

- *If a parcel with an attached IRS lien exists*, proceed to **Section 14: Notice to the IRS**, page 32.
- *If no parcel with an IRS lien exists*, proceed to **Section 15: Publishing/Posting Notice of Sale**, page 33.

## **Mailing Considerations**

Do not use an envelope with a requested return date printed on it because, if the notice is returned without having been delivered, the sale may be void (*Numitor Gold Mining Co. v. Katzer*; see pages 101-102 for complete text).

When an envelope is returned, do not alter or open it; keep it in the parcel file. After the sale, it may become necessary to show proof that the notice was mailed. If the envelope is opened or altered in any way, this proof may be jeopardized.

If an envelope is returned showing the assessee as deceased, check the records of the superior court for a probate. If the estate is in probate, mail the notice to the executor or administrator of the estate. If you cannot find evidence of probate, withdraw the property from the sale and notify the public administrator. See page 65 for more information on unprobated property.

Date \_\_\_\_\_

## NOTICE OF SALE OF TAX-DEFAULTED PROPERTY

\_\_\_\_\_ COUNTY TAX COLLECTOR'S OFFICE

Name  
Address  
City, State, Zip Code

### IMPORTANT NOTICE TO PARTIES OF INTEREST

Our records indicate that you may have a legal interest in the property described below. This property will be offered for sale at public auction to the highest bidder, at the place, date, and time indicated. The proposed sale is for the purpose of satisfying unpaid taxes, penalties, and costs.

The amount currently required for redemption is shown below. **THE RIGHT OF REDEMPTION WILL TERMINATE AT THE CLOSE OF BUSINESS ON THE LAST BUSINESS DAY PRIOR TO THE DATE THE SALE BEGINS.**

Redemption amount: \$ \_\_\_\_\_, if paid before \_\_\_\_\_

Place of sale if not redeemed: \_\_\_\_\_

Date and time of sale: \_\_\_\_\_

Last assessee name: \_\_\_\_\_

Description (include address if available): \_\_\_\_\_

\_\_\_\_\_

If the property is not sold, the right of redemption will revive up to the close of business on the last business day prior to the next scheduled sale.

If the property was damaged, and not substantially repaired, within the last five years due to a local, state, or federally declared disaster, it cannot be offered for sale until it has been tax-defaulted for five years from the date of the disaster. If the property falls into this category, contact the county tax collector's office immediately at (phone number). Documentation may be requested by the tax collector that the property was damaged as a result of a declared disaster and the date the damage occurred.

### RIGHTS OF PARTIES OF INTEREST AFTER SALE

If the property is not redeemed, and it is sold, you have the right to claim proceeds remaining after the tax and assessment liens and the costs of sale are satisfied. To claim the excess proceeds, you must be a "party of interest" as defined by Section 4675 of the Revenue and Taxation Code.

A claim for excess proceeds must be filed within **ONE YEAR** after the tax collector's deed to the purchaser is recorded.

The law protects parties of interest by requiring that any assignment to another person of the right to claim excess proceeds can be made only by means of a dated, written document. The document must specifically state that the right to claim excess proceeds is being assigned and that each party to the transaction has informed the other of the value of the right being assigned.

If you have any questions concerning redemption, the proposed sale of the property, or your right to claim excess proceeds, call the person named below between the hours of \_\_\_\_\_ and \_\_\_\_\_.

Name: \_\_\_\_\_ Phone number: \_\_\_\_\_

**PAF-5 (SCO 8-05.1)**

# Section 13: Notice to Assessee by Personal Contact

120 - 10 days prior to sale

For certain parcels, you should attempt to contact the assessee in person to notify him or her of the impending sale as soon as you mail the parties-of-interest notice. Attempting to notify the assessee is required for each parcel having either: 1) a valid homeowner's exemption on file with the county assessor in the name of the last known assessee; or 2) a mailing address for the last tax bill that is the same as the situs.

The personal contact requirements state that the tax collector or his or her agent must make a reasonable effort to contact the owner-occupant of the property in person, not more than 120 days nor less than 10 days prior to the date of the sale (§3704.7(a)).

**Note:** In most cases, you will have already mailed a parties-of-interest notice. Contact by mail does not, however, eliminate the need for a personal contact. These are two separate notification requirements.

**Step 1:** Make a personal appearance at the property. If you believe that the owner-occupant may not welcome your presence, you may wish to have a law enforcement agent accompany you or serve the notice.

**Step 2:** However contact is made, the owner-occupant must be informed of the following.

- 1) The fact that the property will be offered for sale if it is not redeemed (§3704.7(a)(1)).
- 2) Redemption rights are afforded to the owner-occupant pursuant to Part 7, commencing with Section §4101 (§3704.7(a)(2)). These rights include the opportunity to redeem the property up to the close of business of the last day prior to the sale, the right to claim excess proceeds if the property is sold, and the opportunity to redeem the property after the auction if the property is not sold.

**Step 3:** If, after making a reasonable effort, you cannot make personal contact with the assessee, serve a written notice no less than five days before the date of the sale.

The notice must include a statement urging the assessee to contact the tax collector's office immediately regarding the redemption payment, and it must explain the consequences of non-payment (§3704.7(b)). The State Controller's Office has designed a sample notice (see form PAF-6 on page 31). ***We recommended that you use this notice.*** However, if your office has an existing notice, you may continue to use it. The notice must contain the information fields shown in the sample notice.

**Note:** If you have made personal contact and/or posted notice of the property sale, you may add that cost (up to \$100) to the total redemption fee (§4112(a)(4)).

**Step 4:** The cost involved in making the personal contact and serving notice may be included in the amount required to redeem the property. The cost may not exceed \$100 (§3704.7(c)).

Note: In a number of counties, it is the policy of the tax collector's office to notify, by personal contact, the occupants of each property slated for public auction, regardless of whether a valid homeowner's exemption exists or the mailing address is the same as the situs. No law or statute requires this practice. Be aware that any cost incurred from a personal contact for a property that does not meet the criteria outlined in §3704.7(c) cannot be added to the redemption amount.

**Step 5:** Determine whether an IRS lien exists on any parcel.

- *If the IRS has a lien on a parcel*, proceed to **Section 14: Notice to the IRS**, page 32.
- *If no IRS lien exists on the parcel*, proceed to **Section 15: Publishing/Posting Notice of Sale**, page 33.

## NOTICE OF PERSONAL CONTACT FOR SALE OF TAX-DEFAULTED PROPERTY

County of \_\_\_\_\_ Assessor's Parcel Number: \_\_\_\_\_

Assessee: \_\_\_\_\_ Default Number: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Notice is hereby given by the tax collector of \_\_\_\_\_ county that five or more years have elapsed since the duly assessed and legally levied taxes on your property were declared in default. Your property is now subject to sale for nonpayment of taxes unless the total amount to redeem the property is paid to the tax collector of this county before the sale.

NOTE: Your right of redemption will terminate at the  
close of business (5 p.m.) on the last  
business day prior to the date the sale begins.      Date of Sale: \_\_\_\_\_

As you are listed as the assessee and the owner/occupant of this property, which is considered to be your primary residence, the tax collector is required by Section 3704.7 of the *Revenue and Taxation Code* to make a reasonable effort to contact you in person to inform you of your right of redemption. Tax-defaulted property may be redeemed by paying all the unpaid taxes and assessments, together with additional penalties and fees. If you fail to redeem your property, it will be offered for sale. If it is sold, you have the right to claim excess proceeds according to Section 4675 of the *Revenue and Taxation Code*. If the property is not sold, the right of redemption will revive up to the close of business of the last business day prior to the next scheduled sale.

In the event that you decide to redeem the property, the tax collector will add to the amount of redemption an additional cost for making this personal contact, in an amount not to exceed one hundred dollars (\$100).

-----  
I declare, under penalty of perjury, that the foregoing is true and correct and that I, as Tax Collector/Deputy Tax Collector, have contacted/attempted to contact personally the owner/occupant of the property described above, on this date: \_\_\_\_\_.

Signed: \_\_\_\_\_  
Tax Collector/Deputy Tax Collector

If you have any questions, please call:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PAF-6 (SCO 8-05.3)**

## Section 14: Notice to the IRS

### 45 - 25 days prior to sale

It was advised earlier in this handbook that, during the parties of interest search, you tag files of those parcels identified as having an IRS lien. Although you can start the notification to the IRS for such parcels immediately after the board of supervisors approves the sale, the State Controller's Office recommends that you notify the IRS as close to the 25-day deadline as possible, to avoid missing any filed liens.

USC Internal Revenue Code (Title 26) §7425(c) requires that, whenever an IRS lien is discovered on a parcel of property that is subject to a tax sale, the IRS be given notice of that fact before the sale occurs.

The United States has the right to redeem from the purchaser, up to 120 days after the date of the sale, any property sold at a tax sale that has an IRS lien on it (USC Title 26, §7425(d)). If a property has an IRS lien on it, that information is included in the parcel description announcement prior to the bidding (see page 45, Step 2).

**Step 1:** Prepare the notice. It must contain the following information, pursuant to federal procedures/ Internal Revenue Regulation 301.7425-3.

- 1) Tax collector's name and office address
- 2) Description of the property (copies of the Notice of Power to Sell and of the assessor's parcel map are sufficient)
- 3) Date, time, and place of the sale
- 4) Name and address of the taxpayer
- 5) Name of the IRS district
- 6) Date and place the notice of lien was filed
- 7) Approximate amount of the principal obligation—including interest, penalties, fees, and cost to redeem the property—and a description of any expenses, such as advertising costs, recording fee, county fees, state fees, and current taxes, that will be chargeable against the sale proceeds

Note: A copy of this file attached to the notice to the IRS is sufficient to fulfill the information requirements of items 4 through 6.

**Step 2:** Send the notice by registered mail, certified mail, or personal service not less than 25 days prior to the date of the sale (*USC Internal Revenue Code* §7425(c)).

**Step 3:** Once the mailing is completed, proceed to **Section 15: Publishing/Posting Notice of Sale**, page 33.



## Section 15: Publishing/Posting Notice of Sale

### 120 - 21 days prior to sale

A notice of impending sale must appear once a week for three successive weeks in 1) a newspaper of general circulation published in the county seat, and 2) a newspaper of general circulation published in the judicial district where the property to be sold is situated (§3702).

Note: If a newspaper of general circulation is published in both the county seat and the judicial district where the property is located, publication in that paper alone will satisfy the notice-of-sale requirements (§3702).

If no newspaper is published in the county seat or in the judicial district, a notice may be posted in three public places in the county seat or the judicial district (§3702). Also, if, in the judgment of the board of supervisors, any parcel to be sold by sealed bid will bring at the sale less than the cost of the newspaper publication, a notice may be posted in three public places, pursuant to §3702, instead of published in a newspaper (§3703).

Regardless of the publication method, the notice shall be started **not less than 21 days** prior to the sale (§3702).

**Step 1:** Determine the publishing deadline date. This is at least 21 days prior to the date of the sale.

**Step 2:** Submit the information and set a date of publication. If possible, start the publication at least 7 to 14 days ahead of the 21-day deadline, to allow time to correct any potential errors found in the publication.

Note: Taxing agencies must be notified at least 30 days prior to the first publication. If the first publication is scheduled a few weeks ahead of the deadline, adjust the taxing agency notification accordingly (see page 19).

**Step 3:** Prepare the notice. The State Controller's Office has designed a sample notice (see form PAF-7 on page 35). **We recommend that you use this notice.** However, if your office has an existing notice, you may continue to use it. The published or posted notice must contain the following information.

- 1) Type of sale (*California Code of Regulations* (CCR), Title 2, §1136.18)
- 2) Date, time, and location of the sale (§3704(a))
- 3) Description of the parcel (§3704(b))
- 4) Assessor's Parcel Number (CCR, Title 2, §1136.5 and §1136.18)

Note: If a parcel number has changed, show both the current and the former parcel number.

- 5) An explanation of the parcel numbering system (CCR, Title 2, §1136.5)
- 6) The name of the last assessee (§3704(c))

- 7) The amount of the minimum acceptable bid (§3704(d))
- 8) A statement declaring that, if the property is not redeemed before the close of business on the last business day prior to the date of the sale, the right of redemption will cease (§3704(e))
- 9) A statement declaring that, if the property is sold, parties of interest, as defined in §4675, have the right to file a claim with the county for any proceeds from the sale that are in excess of the liens and costs required to be paid from the proceeds (§3704(f))
- 10) A statement that, if excess proceeds result from the sale, notice will be given to the parties of interest (§3704(g))
- 11) Date, time, and location of any subsequent sale if a parcel remains unsold after the tax sale (§3704(h)). If no subsequent sale is required, this section does not apply.
- 12) A statement that the tax collector intends to re-offer unsold parcels at another sale within 90 days, if applicable (§3692(e))

**Step 4:** It is recommended that an affidavit of publishing be filed in the tax collector's office, in case questions arise regarding the publication of the notice. The newspaper or circulation organization carrying the notice should automatically supply the affidavit of publishing.

Note: If the notice was posted rather than published, the tax collector should prepare an affidavit. The State Controller's Office has designed a sample affidavit form (see form PAF-8 on page 36). ***We recommend that you use this form.*** However, if your office has an existing form, you may continue to use it.

**Step 5:** Obtain copies of the newspaper(s) for the pertinent publication dates and check the parcel listings to ensure that the published information is correct. If you discover any errors, ask the newspaper's representatives to correct them immediately.

Note: If a correction is necessary, the 21-day notification schedule ***must be re-started*** from the date the corrected notice is published. This is why we recommended that you start the publication process at least 7 to 14 days before the minimum 21-day cutoff.

**Step 6:** Upon completion of the published notification (the last of the statutory requirements), the public auction may be officially conducted. However, before proceeding to **Section 18: Conducting the Public Auction**, page 43, read **Section 16: Redemption and Other Issues Prior to the Sale**, page 37, and **Section 17: Information for Prospective Bidders**, page 42.

**NOTICE OF PUBLIC AUCTION ON (DATE OF SALE)  
OF TAX-DEFAULTED PROPERTY FOR DELINQUENT TAXES**

Made pursuant to Section 3692, Revenue and Taxation Code

On (DATE OF BOARD APPROVAL), I, (TAX COLLECTOR'S NAME), (COUNTY NAME) Tax Collector, was directed to conduct a public auction sale by the board of supervisors of (COUNTY NAME), California. The tax-defaulted properties listed below are subject to the tax collector's power of sale and have been approved for sale by a resolution dated (DATE OF BOARD RESOLUTION) of the (COUNTY NAME) board of supervisors.

The sale will be conducted at (TIME) on (DAY OF WEEK), (DATE), in (ROOM OR LOCATION) at (STREET ADDRESS, CITY, STATE) as a public auction to the highest bidder for cash in lawful money of the United States or negotiable paper, for not less than the minimum bid as shown on this notice. If no bids are received on a parcel, it will be re-offered at the end of the auction at a minimum price appropriate to stimulate competitive bidding.

The right of redemption will cease on (DAY OF WEEK), (LAST BUSINESS DAY BEFORE SALE), at 5 p.m. and properties not redeemed will be offered for sale. If the parcel is not sold, the right of redemption will revive and continue up to the close of business of the last business day prior to the next scheduled sale.

If the properties are sold, parties of interest, as defined in California Revenue and Taxation Code Section 4675, have a right to file a claim with the county for any excess proceeds from the sale. Excess proceeds are the amount of the highest bid in excess of the liens and costs of the sale, which are paid from the sale proceeds.

More information may be obtained by contacting the tax collector at (ADDRESS) or calling (PHONE NUMBER).

**PARCEL NUMBERING SYSTEM EXPLANATION**

The Assessor's Parcel Number (APN), when used to describe property in this list, refers to the assessor's map book, the map page, the block on the map (if applicable), and the individual parcel on the map page or in the block. The assessor's maps and an explanation of the parcel numbering system are available in the assessor's office.

The properties subject to this notice are situated in (COUNTY NAME), California, and are described as follows:

ITEM NO.	ASSESSOR'S PARCEL NUMBER	LAST ASSESSEE NAME	MINIMUM BID
1	123-456-789-0	ASSESSEE NAME	\$500

I certify (or declare), under penalty of perjury, that the foregoing is true and correct.

(Signed) \_\_\_\_\_  
County Tax Collector

Executed at (county seat, county name) on (date).  
Published in (name of newspaper) on (dates of publication).

**PAF-7 (SCO Figure 9.5)**

**AFFIDAVIT OF POSTING NOTICE OF (PUBLIC AUCTION/SEALED BID SALE)**  
**\_\_\_\_\_ COUNTY TAX COLLECTOR**

State of California

\_\_\_\_\_ County

I, \_\_\_\_\_, certify that I am an (employee/officer) of \_\_\_\_\_ County, State of California, and that on \_\_\_\_\_, \_\_\_\_\_, I posted true and correct copies of the attached county tax collector's Notice of Sale of Tax-Defaulted Property for Delinquent Taxes, said notice pertaining to a (public auction/sealed bid sale) scheduled to be held in the county tax collector's office, beginning at the hour of \_\_\_\_\_ \_m on \_\_\_\_\_.

I further certify that said copies of the notice were posted not less than 21 days prior to the date scheduled for the sale, at the following places in the county, to wit:

One located at \_\_\_\_\_, at the hour of \_\_\_\_\_ \_m.

One located at \_\_\_\_\_, at the hour of \_\_\_\_\_ \_m.

One located at \_\_\_\_\_, at the hour of \_\_\_\_\_ \_m.

DATED \_\_\_\_\_  
\_\_\_\_\_ Affiant

Subscribed and sworn to before me, \_\_\_\_\_, the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
(Notary Public, County Clerk, etc.)

## Section 16: Redemption and Other Issues Prior to the Sale

Several last-minute variables can affect a parcel's eligibility to be sold at public auction, such as whole or partial redemption, objection to the sale, or bankruptcy of the assessee. This section discusses these variables and the methods for processing each.

### Redemption

**Step 1:** All redemption payments, whether in person or by mail, must be physically received in the tax collector's office before the close of business on the last business day before the sale (§3707(b)). Payments received after the deadline should be returned.

Note: If the redemption payment is made 90 days or less prior to the sale date, add \$150 to the total redemption fee.

Note: If you have made personal contact and/or posted notice of the property sale, add to the total redemption fee an amount (not to exceed \$100) (§4112(a)(4)).

**Step 2:** Upon receipt of a timely redemption, withdraw the property from the sale.

Note: Although redemption payments are timely up to the last business day before the sale, the county should carefully consider whether it wants to accept such payments in the form of negotiable instruments that cannot be verified for sufficient funds before the sale.

A recommended policy is to limit the types of payment instruments accepted during the week before the sale to those that do not require verification of funds, such as cash, cashier's checks, money orders, or (county policy permitting) credit cards.

**Step 3:** When a parcel is redeemed, complete a Rescission of Notice of Power to Sell form. The State Controller's Office has designed one sample rescission form for full redemptions and another for partial redemptions (see forms PAF-9 and PAF-10 on pages 40 and 41). ***We recommend that you use these forms.*** However, if your office has existing forms, you may continue to use them.

**Step 4:** Refer to the *County Tax Collector's Reference Manual*, Chapter 5000, Redemption section, for additional instructions needed to complete the rescission process.

### Portion of Property Redeemed

If a portion of the property is withdrawn or redeemed, or if the power to sell was canceled pursuant to Chapter 4, Part 9, Division 1, of the *Revenue and Taxation Code*, you may reduce the minimum selling price. You must first determine what percentage of the property has been redeemed or withdrawn, as the minimum selling price may be reduced by no more than that percentage (§3706). For example, if 40% of the property has been redeemed, the minimum selling price may be reduced by no more than 40%.

## Objection to the Sale

You must withdraw from a public auction property that has been **approved** for sale to a public agency or qualified nonprofit corporation through Revenue and Taxation Code Chapter 8 agreement proceedings. Refer to page 20 to establish whether a parcel falls into this category and whether the objection will affect the sale of the parcel by public auction.

## Bankruptcy

If the assessee declares bankruptcy, even at the last minute, the parcel may have to be withdrawn from the public auction.

**Step 1:** Determine the validity of the claim.

- *If the assessee claims bankruptcy over the phone but provides no court filing number, disregard the claim and do not withdraw the parcel.*
- *If the assessee provides a completed petition form but no court filing number, disregard the claim and do not withdraw the parcel.*
- *If the assessee provides a completed petition with a court filing number, you may have to withdraw the parcel from the public auction. Proceed to Step 2.*

Note: Although a valid bankruptcy creates an automatic stay to prevent the sale of the property, you may continue any remaining preparations and actions ***except the actual sale of the property***.

**Step 2:** Withdraw the parcel from sale by “postponement,” with the intent of re-offering it at a follow-up sale within 90 days of the original sale date.

**Step 3:** Contact county counsel to determine a course of action, including possible relief from the stay.

Note: If you can attain relief from the stay before the original sale date, you may offer the parcel for sale as originally scheduled.

If you cannot attain relief from the stay before the original sale date but can attain relief within 90 days after the sale date, you may re-offer the parcel using the postponement procedures. See page 47 for an outline of the procedures.

## **Injunction Brought Against Tax Sale**

An injunction, restraining order, or other legal action cannot be brought against the county to either prevent or enjoin the collection of property taxes sought to be collected (§4807). However, an injunction may be attempted to prevent a parcel from being offered at a tax sale.

If an injunction for a particular parcel is brought against the tax sale, contact county counsel. For specific procedures, refer to Appendix III, Process to Address an Injunction, on page 72.

Note: The above statements ***do not apply*** to the automatic stay provision of the bankruptcy court. Refer to page 38 for issues related to bankruptcy.

## **Mobile Homes and Other Possessory Interests**

You must withdraw from the sale property that is determined not to be subject to tax default, e.g., mobile homes without permanent foundations, possessory interests, leasehold estates, and property subject to the conditions described on pages 65-67.

## **Parcels Withdrawn for Any Other Reason**

The tax collector may withdraw a parcel from a tax sale, with consent of county counsel, if it is deemed to be in the best interest of the county to do so (§3698.8).

## **Other Conditions**

Property with any condition that causes or requires the cancellation of its Notice of Power to Sell must be withdrawn from the sale. For a sample form and specific information concerning the cancellation of a Notice of Power to Sell, refer to the *County Tax Collector's Reference Manual*, Chapter 7000, Cancellation of Notice section.

**RESCISSION OF NOTICE OF POWER TO SELL TAX-DEFAULTED PROPERTY**

Which was declared to be defaulted for the  
nonpayment of delinquent property taxes for the  
Fiscal Year \_\_\_\_\_ ,

Default Number \_\_\_\_\_

Assessor's Parcel Number \_\_\_\_\_

On file in the office of the Tax Collector of \_\_\_\_\_ County is a Certificate of  
Redemption, Number \_\_\_\_\_ , dated \_\_\_\_\_ , attesting to payment of the  
amount required to redeem the property described herein, assessed to:

\_\_\_\_\_  
\_\_\_\_\_

Therefore, in accordance with Chapter 1, Part 7, of Division 1 (Section 4112) of the Revenue and Taxation Code, I,  
the undersigned Tax Collector of said county, do hereby rescind that certain Notice of Power to Sell Tax-Defaulted  
Property recorded on \_\_\_\_\_ under Instrument Number \_\_\_\_\_  
\_\_\_\_\_ in Volume \_\_\_\_\_ , at page \_\_\_\_\_ , Official Record of said County.

State of California

Executed on \_\_\_\_\_

County \_\_\_\_\_

By \_\_\_\_\_  
Tax Collector

On \_\_\_\_\_ , before me, \_\_\_\_\_ , personally appeared,  
\_\_\_\_\_ personally known to me - OR - I proved to me on the basis of satisfactory  
evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she  
executed the same in his/her authorized capacity, and that, by his/her signature on the instrument, the person, or the  
entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
County Clerk and Ex Officio Clerk  
or Notary Public

**PAF-9 (SCO 5-08)**



**PARTIAL RESCISSION OF NOTICE OF POWER TO SELL  
TAX-DEFAULTED PROPERTY**

Which was declared to be defaulted for the  
nonpayment of delinquent property taxes for the  
Fiscal Year \_\_\_\_\_ - \_\_\_\_\_,

Default Number \_\_\_\_\_

Assessor's Parcel Number \_\_\_\_\_

On file in the office of the Tax Collector of \_\_\_\_\_ County is a Certificate of  
Redemption, Number \_\_\_\_\_, dated \_\_\_\_\_, attesting to payment of the amount required  
to redeem the property described herein, assessed to:

Therefore, in accordance with Chapter 1, Part 7, of Division 1 (Section 4112) of the Revenue and Taxation  
Code, I, the undersigned Tax Collector of said county, do hereby rescind a portion of that certain Notice of  
Power to Sell Tax-Defaulted Property recorded on \_\_\_\_\_ under Instrument Number \_\_\_\_\_ in  
Volume \_\_\_\_\_, at page \_\_\_\_\_, Official Record of said county. Said portion being more particularly  
described as follows:

State of California

Executed on \_\_\_\_\_

County \_\_\_\_\_

By \_\_\_\_\_  
Tax Collector

On \_\_\_\_\_, before me, \_\_\_\_\_, personally appeared \_\_\_\_\_,  
I personally known to me - OR - I proved to me on the basis of satisfactory evidence to be the person whose  
name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her  
authorized capacity, and that, by his/her signature on the instrument, the person, or the entity upon behalf the  
person acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
County Clerk and Ex Officio Clerk  
or Notary Public

**PAF-10 (SCO 5-09)**

## Section 17: Information for Prospective Bidders

### Prepare for distribution before sale

As the sale date approaches, expect inquiries from the general public regarding specific details about the public auction process and/or individual parcel conditions. Many counties have determined that providing an information package is the best and most efficient method of addressing questions related to a specific tax sale. This package usually consists of information and materials addressing the most common inquiries.

Such a package benefits the prospective bidders, who become better informed about properties for sale, and also county employees, who will have more time to devote to the various steps of the tax sale.

**Step 1:** Develop a package that includes the following items.

- 1) A list of properties or a copy of the published notice.
- 2) A Public Auction Information Sheet containing answers to frequently asked questions. See Appendix V on page 74 for sample questions and suggested answers.
- 3) A list identifying those parcels that may have potential toxic waste problems. You are not required to estimate the extent of a potential hazard or cost of the cleanup. However, you should state all *facts* known to your office about the potential hazard. Refer prospective bidders with further questions to the county health department or the appropriate state or federal agency.
- 4) A list identifying those parcels that have delinquent bonds that must be redeemed separately from the purchase of the parcel.
- 5) If any taxing agencies have objected to the sale of parcels in order to preserve their liens, a list identifying those parcels. Emphasize that the purchaser becomes liable for payment of any and all taxes and assessments owed to the taxing agency.

**Step 2:** Produce the package several weeks before the sale and distribute it prior to and at the auction.

## Section 18: Conducting the Public Auction

Each county is unique in terms of population, proximity to major metropolitan areas, and the number and type of parcels being offered. No set of procedures exists for conducting a tax sale that encompasses all these variations. Nevertheless, all counties must take specific measures, regardless of their individual characteristics.

The following procedures for conducting a tax sale are recommended.

### Staffing

It is entirely up to the tax collector as to how to staff the auction. The following recommendations are based on the shared experiences of various counties.

- Step 1:** Designate the county tax collector or a deputized individual as the auctioneer.
- Step 2:** Designate staff support. Typically, this consists of a cashier to accept payments and a clerk to register the parcels purchased. Depending on the number of parcels offered and the number of prospective bidders anticipated, you might need additional staff members.
- Step 3:** Determine whether a law enforcement officer should be present. Although not required by statute, the presence of an officer may deter individuals from being disruptive at the tax sale.

### Pre-Sale Registration

Before starting the actual sale, you may wish to register bidders and require them to submit a deposit. Historically, counties have found that a pre-sale registration affords the best method of ensuring that only serious bidders participate.

- Step 1:** Direct prospective bidders to sign the registry and submit a deposit, either cash or a money order.
- Step 2:** Assign each prospective bidder a numbered bid card. (The numbers on the card should be large enough for the auctioneer to read from the perimeter of the auction facility.)

Note: Unless otherwise stated, none of these pre-sale registration procedures are required by statute or regulation. However, many counties have found that they contribute to the overall effectiveness and efficiency of the tax sale.

## Pre-Sale Announcements

To facilitate the bidding process, announce in advance the format of the auction and the rules governing it.

Begin the auction proceedings by having the auctioneer read the preamble of the notice that was published pursuant to §3702. In addition, the auctioneer should announce the following:

- 1) No bid will be accepted for less than the minimum bid amount, unless no bids are received initially (§3706). At the discretion of the tax collector, the auctioneer may announce that any remaining parcels may be re-offered at the end of the sale for less than the initial minimum bid amount (§3698.5(c)).
- 2) Certain parcels appearing on the list of parcels offered for sale (e.g., the Public Auction Information Sheet) have been *withdrawn* from the sale, if any.
- 3) Only certain types of payment are acceptable (e.g., cash, cashier's checks, traveler's checks, personal checks, money orders, letters of credit, and electronic funds transfer) and that the conditions of payment are those specified by law, in §3693.1.
- 4) Successful bidders will be required to pay the transfer tax of 55 cents per \$500 of the sale price, with a minimum charge of 55 cents for any property sold between \$100 and \$500, inclusive.
- 5) Bidding will start with the published minimum bid and will rise in specified increments set by the auctioneer (§3706).
- 6) Bidding will conclude when no bid is offered that is higher than the last bid acknowledged by the auctioneer.

## Bidding Procedures

To ensure clear, consistent, and efficient standards in the presentation and sale of each parcel, use the following procedures.

### Step 1: Identify the Parcel

To begin the bidding process for each parcel, the auctioneer should:

- 1) Identify which parcel from the list is up for bid by announcing the parcel's numerical assignment from the list of properties distributed prior to the sale.
- 2) Next, identify the parcel by its property description. The assessor's parcel number may be used rather than the legal description.

Example: "The next parcel up for bid is number 21. The APN is 121-005-85."

**Step 2: Announce Parcel Disposition**

After the parcel has been identified and before the floor is opened to bids, the auctioneer should announce any relevant property conditions that could burden the purchaser with additional costs. These include the following conditions.

- 1) The parcel is known to contain toxic agents that may pose a possible hazardous waste problem.
- 2) A taxing agency has objected to the sale in order to preserve a lien (§3695).
- 3) The parcel has a lien that may not be extinguished by the sale pursuant to §3712.
- 4) The parcel has an IRS lien.
- 5) The purchaser may be subject to an additional city transfer tax.

Example: "This parcel is known to have toxic waste on the grounds. In addition, there is an IRS lien affecting the property and the IRS has an option of purchasing the property from the buyer within 120 days."

**Step 3: Open the Floor for Bidding**

After making the announcement concerning each parcel's condition, the auctioneer should begin the bidding process for that parcel.

- 1) Indicate the minimum bid and the acceptable incremental increase for subsequent bids, and open the floor for bidding.
- 2) When an individual raises a bid card or calls out a bid, identify the bid card number and repeat the bid amount so other bidders know the current bid.
- 3) Repeat the bid and ask for the next highest increment until either another individual raises the bid or no one contests the bid.
- 4) Conclude the bidding of each parcel when the last acceptable bid goes unchallenged or there is no bid.

Example: "The bidding for this parcel will start at \$1,000 and will increase in \$100 increments. Do I have \$1,000? Yes, I have \$1,000 from number 32. Do I have \$1,100? The bid is \$1,000; do I have \$1,100? The bid is \$1,000. Going once... going twice... sold, to number 32 for \$1,000."

#### **Step 4: Record the Bids**

When bidding has concluded on a parcel, complete the following procedures.

- 1) Record the high bid and the purchaser's name on a receipt. The State Controller's Office has designed a sample receipt (see form PAF-11 on page 48). ***We recommend using this form.*** However, if your office has an existing form, you may continue to use it.
- 2) Give the receipt to the cashier.
- 3) The cashier will give a copy of the receipt to the successful bidder after collecting payment. Inform successful bidders that they must pay the cashier immediately unless they have made prior arrangements. If the payment is required immediately, it is at the tax collector's discretion as to whether each transaction must be completed before, or concurrently with, offering the next parcel. The tax collector may choose to wait until all bidding has concluded before collecting payments for the parcels. However, the auction should never be officially closed until the cashier verifies that ***all*** payments have been collected from ***all*** successful bidders.

#### **Step 5: Conclusion of Sale**

When bidding on the last parcel has been concluded and before closing the sale, you may, ***if previously authorized by the board of supervisors***, re-offer any parcel on which no bid was received, for an amount less than the original minimum bid. (See page 16 for information on approval from the board of supervisors to re-offer unsold parcels.) The new minimum bid amount is set at the tax collector's discretion (§3698.5(c)).

Important: If a parcel receives no bid and it has a ***welfare exemption***, you may re-offer the parcel ***only at the next scheduled sale*** (§3698.7(c)).

### **Payment Procedures**

Generally, payment for a parcel should be collected immediately after it is sold, although many counties collect payment for all parcels at the conclusion of the auction. Regardless of the system used, complete the following required steps for each purchase.

- Step 1:** Determine the transfer tax and complete the receipt. Copies of the tax-rate tables are available from the county recorder.
- Step 2:** Verify the manner in which the purchaser is to take title. The State Controller's Office has designed a sample purchase agreement (see form PAF-12 on page 49). ***We recommend that you use this purchase agreement form.*** However, if your office has an existing form, you may continue to use it.
- Step 3:** Verify the purchaser's name, address, and where the tax bill is to be mailed.

**Step 4:** Collect the payment. On bids for which you have allowed a credit transaction, the purchaser must deposit \$5,000 or 10% of the minimum bid amount, whichever is greater (§3693.1). The balance of the transaction must be completed, at the tax collector's discretion, from 1 to no more than 90 days after the date of the auction (§3693.1).

**Step 5:** Do not issue the purchaser a deed until the credit transaction has been completed.

## Conclusion of Sale

Once the sale is concluded, you must complete certain follow-up reports and tasks, which are outlined in **Section 19: Recording of Deed and Deposit of Proceeds**, page 50.

## Voided Sales

If the highest bidder refuses or neglects to consummate the purchase, void the sale. The bidder forfeits any down payment he or she made in a credit transaction, as well as any rights with respect to the property. Consult county counsel as to whether the tax collector's office should seek legal action against the bidder.

Note: *Under no circumstances may you award the property to the second highest bidder.*

For any parcel where the sale has been voided, the assessee's right to redeem is revived by operation of law (§3707(d)). The right to redeem is valid until the last business day prior to the next sale at which the parcel will be offered.

## Continuance of Sale

If there is insufficient time to offer all properties for sale in one business day, the auction may be continued to the next business day. At the end of the first day, make the announcement that the sale will be continued on the following day; specify the time and location.

## Postponement of Sale

A public auction, or any portion thereof, may be postponed for seven days or less simply by declaring, at the time and place originally fixed for the sale, the new time, date, and place (§3706.1(a)). No other notice need be given for a postponement of less than seven days. However, to postpone a public auction for eight to 90 days, a declaration to this effect should be made and written notice of the postponement must be sent to the parties of interest, as defined in §4675 (§3706.1(b)).

In addition to the written notice to the parties of interest, you must provide a new published notice in the manner prescribed in §3701 and §3702 (§3706.1(b)). You must also notify the State Controller's Office of the postponement and of the new date, time, and location (§3700.5). Although you are not legally required to do so, you may publish a notice of the postponement in a newspaper of general circulation in the county. Right of redemption is automatically extended to the new sale date, as prescribed by §3706.

**RECEIPT FOR PROPERTY PURCHASED AT TAX SALE**  
**\_\_\_\_\_ COUNTY TAX COLLECTOR'S OFFICE**

Sale \_\_\_\_\_ Year \_\_\_\_\_ Assessor's Parcel Number \_\_\_\_\_

Receipt is hereby acknowledged for the sum of \$ \_\_\_\_\_

in \_\_\_\_\_ cash \_\_\_\_\_ negotiable paper subject to collection from:

\_\_\_\_\_ as the purchase price for the following described parcel of real property that was sold at (public auction/sealed bid auction) for delinquent property taxes this date in accordance with Chapter 7, Part 6, Division 1, of the Revenue and Taxation Code.

**(description)**

After recordation, the deed will be mailed to you by the county recorder.

\_\_\_\_\_  
\_\_\_\_\_ County Tax Collector

By \_\_\_\_\_  
Deputy

\_\_\_\_\_  
Date

Amount bid: \$ \_\_\_\_\_ Recorder's Transfer Tax collected (not  
included in purchase price): \$ \_\_\_\_\_

-----  
Please issue deed in favor of \_\_\_\_\_

and mail to \_\_\_\_\_ at \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Signed by Purchaser)

**PAF-11 (SCO 8-06)**



## OFFICE OF THE COUNTY TAX COLLECTOR PURCHASE AGREEMENT

Pursuant to Section 3693.1 of the California Revenue and Taxation Code, the purchaser, by electing to treat the sale as a credit transaction, hereby agrees to pay five thousand dollars (\$5,000) or ten percent (10%) of the minimum bid amount, whichever is greater, to the Tax Collector on the date of the auction and to pay the balance of the purchase price in cash within the period specified herein by the tax collector, not to exceed 90 days from the date of the auction. Upon full payment of the purchase price, title will be transferred to the purchaser.

**Failure on the part of the purchaser to consummate the sale within the period specified by the tax collector shall result in the forfeiture of the deposit and all rights which he or she might have with respect to the property.**

This agreement concerns the property identified as:

Assessor's Parcel Number: \_\_\_\_\_

Tax Auction Sale Number \_\_\_\_\_

Purchase Price: \$ \_\_\_\_\_

Documentary Transfer Tax: \$ \_\_\_\_\_

Total \$ \_\_\_\_\_

Deposit (Inc. Doc. Tran. Tax): \$ \_\_\_\_\_

Balance Due \$ \_\_\_\_\_

The balance of \$ \_\_\_\_\_ must be paid by \_\_\_\_\_, \_\_\_\_\_, at the Office of the Tax Collector.

Receipt # \_\_\_\_\_ issued in acceptance of the above-referenced deposit.

Date of Sale and Purchase Agreement: \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Name of Purchaser (as it will appear on tax deed)

\_\_\_\_\_  
Name of Purchaser (as it will appear on tax deed)

\_\_\_\_\_  
Signature of Purchaser

\_\_\_\_\_  
Signature of Purchaser

\_\_\_\_\_  
Address

\_\_\_\_\_  
Tax Collector

County of \_\_\_\_\_

\_\_\_\_\_  
City State Zip Deputy

By \_\_\_\_\_

Telephone #: \_\_\_\_\_

**NOTE:** Do not use abbreviations as to how title will be held by the purchaser, i.e., J/T for Joint Tenant, H&W for Husband and wife, TR for trustee.

**PAF-12 (SCO 8-24)**

## Section 19: Recording of Deed and Deposit of Proceeds

Once the sale is concluded, you must complete a number of follow-up procedures, including payment, title transfer, filing of various reports, and distribution of proceeds to the proper entities.

### Deed Transaction and Recording

Upon completion of the sale, you must record a deed in the purchaser's name. The State Controller's Office has designed a sample deed form (see form PAF-13 on page 52). ***We recommend that you use this form.*** However, if your office has an existing form, you may continue to use it. The form must contain the required information specified in §3710.

The recommended transaction procedures are as follows.

- Step 1:** Prepare and execute a deed in the purchaser's name ***only after the purchaser has made full payment*** for each parcel and the funds have been verified (§3708).
- Step 2:** Immediately record the deed with the county recorder (§3708.1).
- Step 3:** Within 10 days, record the change of ownership with the county assessor (§480.3 and §3716).

Note: A Preliminary Change of Ownership Report (PCOR) is not required when recording a deed transfer from a sale for defaulted taxes. The information given to the assessor pursuant to §3716 or §3811 is considered sufficient (§480.3(e)).

Note: Do not record a Rescission of Notice of Power to Sell or a Cancellation of Notice of Power to Sell for property redeemed as a result of a tax sale. The recorded Tax Deed to Purchaser is considered public notice that taxes have been satisfied and the property has been conveyed to a bona fide purchaser.

## Deposit of Proceeds

Deposit the money received from a tax sale just as you would deposit money collected for tax payments (§3718). Allocate the proceeds in the following manner.

- Step 1:** Deposit a portion equal to the advertising costs in the county general fund (§3719).
- Step 2:** Deposit the balance of the proceeds, less the recorder's fee and the transfer tax, in the delinquent tax sale trust fund (§3719).
- Step 3:** Deposit the recorder's fee and the transfer tax in an appropriate fund (such as the tax collector's trust fund) and draw a warrant, or separate warrants, in favor of the county recorder for payment.

## Returned Check/Failure to Complete Purchase

When a check is returned unpaid, the bid upon which it was accepted becomes void, as if no bid had been made (§3455). In addition, the county has a claim against the person tendering the dishonored check for the costs involved in preparing the parcel for the tax sale (research, advertising, etc.). Notify, by registered or certified mail, the person attempting payment that the bid has been voided and the sale of that parcel is therefore cancelled; state the amount of the county's claim (§3456). Retain the dishonored paper as proof of the tax collector's claim and refer the matter to the county's legal advisor.

## Statute of Limitations

An action to overturn a sale based on alleged invalidity or irregularity of any proceedings must be commenced ***within one year*** after the date of execution of the tax deed to purchaser (§3725).

De. Trans. Tax - computed on full value of property conveyed \$ \_\_\_\_\_

\_\_\_\_\_  
*Signature of Declarant*

**TAX DEED TO THE PURCHASER  
OF TAX-DEFAULTED PROPERTY**

**On which the legally levied taxes were a lien for fiscal year** \_\_\_\_\_

**and for nonpayment were duly declared to be in default.** \_\_\_\_\_

*Default Number*

This deed, between the Tax Collector of \_\_\_\_\_ County ("SELLER") and \_\_\_\_\_ ("PURCHASER"),  
conveys to the PURCHASER, free of all encumbrances of any kind existing before the sale, except those  
referred to in §3712 of the Revenue and Taxation Code, the real property described herein which the  
SELLER sold to the PURCHASER \_\_\_\_\_ on \_\_\_\_\_,  
pursuant to a statutory power of sale in accordance with the provisions of Division 1, Part 6, Chapter  
\_\_\_\_, Revenue and Taxation Code, for the sum of \$ \_\_\_\_\_.

\_\_\_\_\_ taxing agency objected to the sale.

In accordance with law, the SELLER hereby grants to the PURCHASER that real property situated in  
said county, State of California, last assessed to

\_\_\_\_\_, described as follows:

\_\_\_\_\_  
*Assessor's Parcel Number*

State of California

Executed on

\_\_\_\_\_ County

By \_\_\_\_\_  
Tax Collector

On \_\_\_\_\_, before me, \_\_\_\_\_, personally appeared \_\_\_\_\_, is  
personally known to me - OR - proved to me on the basis of satisfactory evidence to be both the Tax  
Collector of said county and the person whose name is/are subscribed to the within instrument and  
acknowledged to me that he/she executed the same in his/her authorized capacity as Tax Collector, and  
that by his/her signature on the instrument the person, or the entity upon behalf of which the person  
acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
County Clerk and Ex Officio Clerk

\_\_\_\_\_  
Deputy or Notary Public

**PAF-13 (SCO 8-19)**

## Section 20: Post-Sale Reports – Preliminary Procedures

### 0 - 10 days after sale

After the sale has been completed, you must compile reports and supporting documentation to record and track various aspects of post-sale property condition and the distribution of proceeds. One or more of each of these reports must be provided to the county assessor, the county treasurer, and the county auditor.

#### Fee Calculations

The State Controller's Office recommends that, before you begin preparing the reports, you calculate the following for each parcel:

- 1) Purchase price
- 2) Recording fee
- 3) Transfer tax
- 4) \$1.50 State fee (§4672)
- 5) \$150 county fee (§4672.1)
- 6) A minimum of \$35 to cover the cost of researching and giving notice to the parties of interest. A cost greater than \$35 may be calculated, pursuant to Government Code §59385 (§4672.2).
- 7) Cost of advertising the sale (§3719 and §4673)
- 8) Cost of personal contact or posting of property, if applicable (§4672.3)
- 9) The sum of the proceeds remaining after subtracting the amounts above from the purchase price

#### Other Elements of the Sale

Also gather the following information, which should be available from previous research or tasks:

- 1) Name of each purchaser
- 2) Date of the sale
- 3) Legal description of each parcel

#### Review Completion

After completing the calculations and gathering the information listed above, proceed to **Section 21: Post-Sale Required Reports**, page 54.

## Section 21: Post-Sale Required Reports

### 0 - 10 days after sale

After completing all the calculations and obtaining the additional information, you are ready to produce the various post-sale reports.

Although your schedule for producing reports may be based on the schedule for depositing proceeds, you should always give reports with statutory deadlines your top priority.

#### Report to the Treasurer and the Auditor

After depositing sale proceeds, you must immediately transmit a report of the sale to the county treasurer and the auditor (§3718). The State Controller's Office has designed a sample report form (see form PAF-14 on page 56). **We recommend that you use this form.** However, if your office has an existing form, you may continue to use it.

The report of sale must include the following information:

- 1) Cost of advertising the sale (§3718(a))
- 2) Sums received for individual parcels (§3718(b))
- 3) The year, page, and number of the delinquent tax record and the current roll for each parcel (§3718(c))
- 4) Cost of recording the deeds (§3718(d))
- 5) Transfer tax collected at the time of sale
- 6) Amount of fees due to the State (\$1.50 plus \$5 redemption per parcel sold) (§4102 (d))
- 7) Sale fees due to the county (\$150 per parcel sold) (§4112 (a)(3))
- 8) Cost of personal contact or posting of property, if applicable (§4672.3)

#### Report to the Assessor

Within 10 days after the sale, the tax collector is required to report to the assessor (§3716). The report must include the following:

- 1) Name of each purchaser (§3716(a))
- 2) Date of the sale (§3716(b))
- 3) The purchase price (§3716(c))
- 4) Legal description of each property conveyed (§3716(d))

## **Report to the State Controller**

In addition to filing reports with the treasurer, the auditor, and the assessor, you will need to send a report to the Property Tax Collection Standards and Procedures Program of the State Controller's Office.

Upon request by the State Controller's Office, tax collectors must report the disposition of all tax-defaulted parcels subject to the tax collector's power to sell (§3691.6). As of January 1, 1999, it is no longer mandatory to report *every* sale to the State Controller's Office – only those requested.

At this time, the State Controller's Office has not developed reporting requirements or a suggested format. The Property Tax Collection Standards and Procedures Program will advise each county individually on reporting requirements that will be tailored to the circumstances, on an as-needed basis.

## REPORT OF SALE OF TAX-DEFAULTED PROPERTY

\_\_\_\_\_, California  
\_\_\_\_\_, \_\_\_\_\_  
To the Treasurer, Auditor, and Assessor of  
\_\_\_\_\_ County

In accordance with the provisions of the *Revenue and Taxation Code*, you are hereby notified of the disposition of the following-described property:

Tax-defaulted on \_\_\_\_\_, \_\_\_\_\_, for delinquent taxes of \$ \_\_\_\_\_ Default No. \_\_\_\_\_  
Notice of Power to Sell was recorded \_\_\_\_\_, \_\_\_\_\_ in volume \_\_\_\_\_ at page \_\_\_\_\_.  
Current secured roll volume \_\_\_\_\_, page \_\_\_\_\_, assessment \_\_\_\_\_  
Last assessee and last known address:  
\_\_\_\_\_

Date of sale \_\_\_\_\_, \_\_\_\_\_ Date of deed to purchaser \_\_\_\_\_, \_\_\_\_\_

Total sale price \$ \_\_\_\_\_

Less: Cost of advertising \$ \_\_\_\_\_  
Cost of recording fee \$ \_\_\_\_\_  
State fee \$ \_\_\_\_\_

Balance to Delinquent Tax Sale Trust Fund \$ \_\_\_\_\_  
Transfer tax collected \$ \_\_\_\_\_

Deed issued to \_\_\_\_\_ (name and address) \_\_\_\_\_

Where no sale was made on the above-described property, I report the following:

\_\_\_\_\_ Redeemed on \_\_\_\_\_, \_\_\_\_\_  
\_\_\_\_\_ Objection of taxing agency. Name \_\_\_\_\_  
\_\_\_\_\_ No bids received  
\_\_\_\_\_ Other: \_\_\_\_\_

\_\_\_\_\_  
County Tax Collector  
State of California

**PAF-14 (SCO 8-07)**



## Section 22: Excess Proceeds

Notification: 0 - 90 days after sale

Excess proceeds are those proceeds remaining after all required distributions have been made (§4674 and §4675). When excess proceeds from the sale exceed \$150, you must give notice of the right to claim the excess proceeds to all parties of interest (§4676). The notice and claim form must be mailed within 90 days after the date of sale (§4676(a)).

### Notification

- Step 1:** Isolate those parcels that have excess proceeds, pursuant to §4674 and §4675.
- Step 2:** Develop a parties-of-interest list for each of these parcels. Make a reasonable effort to obtain the names and last known mailing addresses of each party of interest (§4676(a)).
- Step 3:** Prepare a written notice of the right to claim excess proceeds and mail it, no later than 90 days after the sale, to each party of interest with a last known address (§4676(a)). The State Controller's Office has provided a sample notice (see form PAF-15 on page 59) and a sample claim form (see form PAF-16 on pages 60-61). ***We recommend that you use these forms.*** However, if your office has existing forms, you may continue to use them.
- Step 4:** If you do not know the last known address of any of the parties of interest, publish a Notice of Excess Proceeds in a newspaper of general circulation in the county. The notice must be published once a week for three successive weeks, with publication starting no later than 90 days after the sale (§4676(a)). Sample notice form PAF-15 may be used.
- Step 5:** Upon completion of the notification process, calculate the notification costs and deduct them from the balance of the excess proceeds. The amount deducted must be deposited into the county general fund (§4676(b)).
- Step 6:** Retain excess proceeds in the delinquent tax sale trust fund for a period of one year ***following*** the date of recordation of the tax deed to the purchaser. After one year, disburse proceeds, in proper proportion, to all eligible parties of interest who submitted a claim (§4676).

## Claim Request Processing

- Step 1:** Review the claim form to determine whether the claimant has provided the necessary proof to establish his or her interest in the property (§4675).
- Step 2:** Determine both the ownership interest and the ownership portion, as proceeds are distributed in direct proportion to the ownership interest that was held in the property. For example, the holder of a one-quarter divided interest could claim no more than one-quarter of the total excess proceeds. (*First Corporation Inc. v. Santa Clara County*, 146 Cal App. 3d 841; see page 99 for complete text.)
- Step 3:** If the information submitted on the claim application meets the requirements outlined in §4674 and §4675, make the proper distribution according to the policy of your office.
- Step 4:** If the distribution involves more than one person and/or entity and the total monetary claims are more than the available proceeds, determine the order of priority for parties of interest as follows:
- 1) Lienholders of record prior to recordation of the tax deed to purchaser (§4675(a))
  - 2) Any person with title of record to all or any portion of the property prior to recordation of the tax deed to the purchaser (§4675(b))

## Unclaimed Excess Proceeds

If unclaimed excess proceeds remain at the end of one year after the recordation date of the tax deed to purchaser, the tax collector may deduct the cost of maintaining the redemption and tax-defaulted property files that was not recovered under any other provision of law (§4674). Use one of the following two methods of distributing the remaining unclaimed excess proceeds.

- *If the county operates under the alternate method of distribution*, you must deposit the excess unclaimed proceeds into the county general fund.
- *For all other counties*, distribute any unclaimed excess proceeds to each tax fund in an amount bearing the same proportion to the balance remaining as the tax rate for each fund bears to the total tax rate applicable to the property for the fiscal year preceding that in which the property was sold.

## NOTICE OF EXCESS PROCEEDS TO PARTIES OF INTEREST

(Party of Interest)  
(Street Address)  
(City, State, and Zip)

### Re: NOTICE OF EXCESS PROCEEDS FROM THE SALE OF TAX-DEFAULTED PROPERTY

Parcel Number:

Assessee:

Situs:

Date Sold:

Date Deed to Purchaser Recorded:

Final Date to Submit Claim:

The property referenced above was declared subject to the tax collector's power of sale for non-payment of taxes and later sold. Parties of interest as defined in Section 4675 of the California Revenue and Taxation Code (e.g., the last assessee and any lienholders of record) have a right to file a claim for any excess proceeds that remain after taxes and costs of the sale have been satisfied.

Our records indicate that you may be a party of interest, and we have enclosed a claim form for your convenience. Please note that your claim must be received within one year of the date the deed to the purchaser was recorded (shown above). By law, claims filed after the one-year period cannot be accepted.

Parties of interest and their order of priority are:

- (a) First, lienholders of record prior to the recordation of the tax deed to the purchaser, in the order of their priority.
- (b) Second, any person with title of record to all or any portion of the property prior to the recordation of the tax deed to the purchaser.

If you consider yourself to be a party of interest in the sale of the above-referenced property, please fill out the enclosed claim form and return it, along with documentation supporting your claim, to:

\_\_\_\_\_.

If you need assistance or have any questions, please contact our office by mail, telephone, or in person. We will help you without charge. You may telephone us at \_\_\_\_\_ any time between the hours of \_\_\_\_\_ a.m. and \_\_\_\_\_ p.m.

Sincerely,

\_\_\_\_\_  
TAX COLLECTOR

**PAF-15 (SCO 8-20)**

**CLAIM FOR EXCESS PROCEEDS**

(See Reverse for Further Instructions)

TO: \_\_\_\_\_, County Treasurer-Tax Collector

RE: Claim for Excess Proceeds

I hereby certify that I am a party of interest in the following parcel:

Parcel Number:

Assessee:

Situs:

Date Sold:

Date Deed to Purchaser Recorded:

I claim excess proceeds under *Revenue and Taxation Code* Section 4675. Enclosed is documentation supporting my claim.

I affirm, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge.

\_\_\_\_\_  
Signature of Claimant

\_\_\_\_\_  
Name of Claimant (please print or type)

Mailing Address:

Daytime Phone: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MAIL COMPLETED CLAIM FORMS TO:

**PAF-16 (SCO 8-21)**  
**(Front)**

## INSTRUCTIONS FOR FILING CLAIM

(See Claim Form on Reverse Side)

The California Revenue and Taxation Code, Section 4675 states, in part (paraphrased):

For the purposes of this article, parties of interest and their order of priority are:

- (a) First, lienholders of record prior to the recordation of the tax deed to the purchaser, in the order of their priority.
- (b) Then, any person with title of record to all or any portion of the property prior to the recordation of the tax deed to the purchaser.
- (c) A party of interest in the property at the time of the sale may assign his or her right to claim the excess proceeds only by a dated, written instrument that explicitly states that the right to claim the excess proceeds is being assigned, and only after each party to the proposed assignment has disclosed to each other party to the proposed assignment all facts of which he or she is aware relating to the value of the right that is being assigned (§4675).

If you consider yourself to be a party of interest in the sale of tax-defaulted property as defined above, please fill out the reverse of this form, stating how you have determined your status as a party of interest. If you need help in filling out the form, please contact our office by telephone at:

\_\_\_\_\_.

You must attach copies of documents to support your claim, as follows:

- (a) In case (a), attach a copy of your trust deed or other evidence of lien or security interest, along with a statement under penalty of perjury setting forth the original amount of the lien or interest, the total amount of payments received reducing the original amount of the lien or interest, and the amount still due and payable as of the date of the sale of the tax-defaulted property by the tax collector.
- (b) In case (b), attach copies of any other documents supporting your claim (e.g., deed, death certificate, will, court order, etc.).
- (c) Any person or entity who in any way acts on behalf of, or in place of, any party of interest with respect to filing a claim for any excess proceeds shall submit proof with the claim that the amount of excess proceeds has been disclosed to the party of interest and that the party of interest has been advised of his or her right to file a claim for the excess proceeds on his or her own behalf (§4675).

PLEASE NOTE: Claims will be processed after one year has passed from the date of the recording of the deed to the purchaser. In order to receive consideration by the county board of supervisors, claims must be received BEFORE THE EXPIRATION OF ONE YEAR following the date of the recording of the deed to the purchaser (see the "Date Deed to Purchaser Recorded" on the attached notice). Following the board's review, the claim will be either approved or denied. The clerk of the board of supervisors will notify you of the action taken by the board. Should the claim be approved, the auditor-controller will, after 90 days, issue a county warrant in payment.

**PAF-16 (SCO 8-21)**  
**(Back)**



# APPENDICES





# I. Disqualifying Parcel Conditions

The following conditions will cause a given property to be exempted or excluded from a tax sale. However, in some cases, these conditions can be remedied. Where applicable, corrective measures are included in the descriptions.

## 1) Property with an Indefinite or Improper Description

Reference made to acreage without specifying boundaries is an improper description. For example, "the south 10 acres of the NW 1/4" creates probable lines but may lead to conflicts over the boundaries. Examples of inadequate descriptions are: a description that is dependent upon another description; a lot shown on an official map without reference to that map; and metes-and-bounds descriptions that do not establish a basic reference such as township, range, meridian, or name of a valid Spanish or Mexican land grant. See Section 8120 of the *County Tax Collectors' Reference Manual* for the full explanation and definition of "indefinite description."

## 2) Property Belonging to Public Agencies

Properties belonging to public agencies normally should not be sold, pursuant to Article XIII, Section 3, of the California Constitution and Section 202 of the Revenue and Taxation Code. Notify the State Controller's Office of any situation regarding a public agency.

## 3) Unpatented Property

Unpatented property is land that has never been granted or conveyed to an individual by either the federal government or the State. It is not subject to taxation and, therefore, cannot be sold at a tax-defaulted land tax sale. When title is in question, the Property Tax Collection Standards and Procedures Program of the State Controller's Office, will, upon request, check for information using the patent records of the appropriate federal office and the State Lands Commission .

## 4) Property Assessed to an Individual Who Has Filed for Bankruptcy

The filing of a bankruptcy petition creates an automatic stay in the enforcement of any lien against the estate of the debtor, and the stay continues until the case is closed or the real property no longer belongs to the estate. If the tax collector learns that bankruptcy proceedings have begun for the assessed owner, the tax collector must ensure that ***no attempt is made to sell the secured property covered by the bankruptcy without the bankruptcy court's permission***. This permission is in the form of a relief from stay. The tax collector should contact the county counsel to file such a motion with the court.

The automatic stay does not prevent the tax collector from asking the debtor or the debtor's attorney about the debtor's intentions with respect to the secured property, nor does it prevent the tax collector from creating or perfecting a statutory lien or function imposed by a political subdivision of the State, if such tax or function comes due after the filing of the bankruptcy petition, including post-petition taxes, power to sell, and other notices as required by law.

## **5) Property Assessed to Individuals Not Responsible for Their Affairs**

If a parcel subject to sale is owned by a person who is in the custody of a state hospital, the property cannot be offered for sale until you determine the patient's status. It may be necessary to call one or both of the following agencies in order to determine a patient's status.

Department of Developmental Services  
Client Financial Services  
(916) 654-2422

Department of Mental Health, Office of Human Rights  
(916) 654-2327

If the individual in question is responsible for his or her affairs, you may proceed with advertising the sale. If a conservator or guardian has been appointed on behalf of the individual, notify the appointed party before including the parcel in the sale.

## **6) Indian Allotment Land**

Indian allotment land on which a trust patent has been issued or reissued, or property located on a reservation, may not be sold at a tax sale. A trust patent is the instrument by which the United States government conveys title of public lands to Indian tribes.

## **7) California Veteran's Land (Cal Vet Property)**

If taxes become delinquent on a Cal Vet property, contact the Contract Services Unit, Department of Veterans Affairs, State of California, 1227 O Street, Sacramento, CA 94295-0001, (916) 503-8362 or (916) 503-8000, and inform the office of the delinquency. The department may pay the taxes to prevent the property from becoming tax-defaulted or subject to the tax collector's power of sale.

## **8) Property Exempted Under the Soldier's and Sailor's Civil Relief Act**

The United States Code, Title 50, App., Sections 501 and 585, affords protection to a person in the military service from the loss of real property through enforcement of the collection of taxes when such property is owned and occupied by dependents or employees as a dwelling or for professional, business, or agricultural purposes. If the real property is subject to the tax collector's power of sale, the enforcement action may be commenced only by court permission granted upon application of the tax collector.

The serviceperson's exemption extends for a period not exceeding six months following termination of service. When computing the tax-default time period, do not include in the calculations the period of military service, pursuant to Section 205 of this code.

## **9) Unprobated Property**

If the notice mailed to the last known assessee is returned by the post office with the word "deceased" stamped on the envelope, check with the clerk of the superior court to determine whether the county has started a probate proceeding. If it has not, notify the county's public administrator that probate proceedings must be initiated immediately. Once probate proceedings have begun and letters of administration have been issued, the property may be sold. Send notice of the impending sale to the probate administrator.

If you cannot find a person or representative having authority of higher rank than the public administrator to assume responsibility for the estate, and the value of the estate is not sufficient to cover the taxes, the secured liens, and the cost of probate, the public administrator of the county where the decedent resided at the time of death, as authorized by Section 7603 of Probate Code, shall notify the tax collector in writing that the public administrator has investigated the estate and has determined that the anticipated equity in the property after settlement does not warrant opening an estate administration. The tax collector may then proceed with the tax sale (§4986.6). See form PAF-16 on page 60-61.

## **10) Contaminated Property**

The State Controller's Office recommends that any property on the Superfund list not be sold at a tax sale.

Property not on the Superfund list but known or suspected to be contaminated may be sold. In such cases, consult county counsel on the specific circumstances. If the sale goes forward, disclose all that is known; do not attempt to estimate the extent of the contamination or the cost of cleanup.

TAX COLLECTOR LETTERHEAD

**REQUEST FOR PROBATE INVESTIGATION**

\_\_\_\_\_, Probate Administrator  
County of \_\_\_\_\_

Please be advised that the real property situated in the County of \_\_\_\_\_, State of California, described as Assessor's Parcel Number \_\_\_\_\_ and commonly referred to as \_\_\_\_\_, is subject to the tax collector's power of sale for the nonpayment of real property taxes for the fiscal year(s) \_\_\_\_ - \_\_\_\_\_. The amount necessary to redeem the property before \_\_\_\_\_ is \$\_\_\_\_\_. Said real property is assessed to \_\_\_\_\_, whose last known address was \_\_\_\_\_.

Information received by this office indicates that said last known assessee(s) is/are deceased and died a resident of \_\_\_\_\_. A copy of the decedent's death certificate is attached for your convenience.

Pursuant to Section 4986.6 of the Revenue and Taxation Code, a request is hereby made for your office to take possession and control of the property referred to above under Section 7600 of the Probate Code, for the purposes of conducting the probate investigation required pursuant to Sections 7602 and 7603 of the Probate Code.

Following the investigation required by your office, please return the attached "Probate Investigation Report of Findings" to this office at the following address:

\_\_\_\_\_ Tax Collector  
County of \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please call this office at \_\_\_\_\_ with any questions you may have regarding this matter.

Sincerely,

cc: \_\_\_\_\_ Probate Administrator  
County of \_\_\_\_\_

Attachment

**PAF-17 (SCO 8-26)**  
**(Front)**

**PROBATE INVESTIGATION REPORT OF FINDINGS**

Date: \_\_\_\_\_

Tax Collector, County of \_\_\_\_\_  
\_\_\_\_\_

In re: THE ESTATE OF \_\_\_\_\_

\_\_\_\_\_ County Assessor's Parcel Number \_\_\_\_\_

Situs Address: \_\_\_\_\_  
\_\_\_\_\_

Pursuant to Section 4986.6 of the Revenue and Taxation Code, the probate investigation of the estate of the decedent referred to above has been conducted as authorized under Sections 7602 and 7603 of the Probate Code. As a result of that investigation, \_\_\_\_\_, Probate Administrator for the County of \_\_\_\_\_, State of California has determined the following:

- ☐ A person with higher priority has been found to assume responsibility for the estate and a proceeding will be commenced to administer the decedent's estate by:

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_Phone: \_\_\_\_\_  
\_\_\_\_\_

Any notices of tax sale should be directed to the above named individual at the address shown and to the following heirs and devisees of the decedent disclosed by the investigation:

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_Phone: \_\_\_\_\_  
\_\_\_\_\_

(Attach additional pages if necessary.)

- ☐ No person with higher priority has been found and the Public Administrator has commenced probate proceedings with respect to the decedent's property. Pursuant to Section 4986.6(b)(1), no tax sale of the property may be made until the probate process is completed.
- ☐ No person with higher priority has been found and the Public Administrator has determined that the value of the estate will not cover taxes, the secured liens, and the cost of probate. The Public Administrator has therefore determined that the anticipated equity in the property does not warrant opening estate administration and any tax sale may proceed.

Any questions regarding this report should be directed to the following:

\_\_\_\_\_, Public Administrator

County of \_\_\_\_\_

**PAF-17 (SCO 8-26)**  
**(Back)**

## II. Establishing the Minimum Selling Price – Welfare Exemptions

Calculate the minimum selling price for each parcel, pursuant to §3698.5. For those with welfare exemptions, determine a minimum selling amount in each of two categories. *After you have determined the total for each category, use the higher total as the minimum selling price* (§3698.5(a)). Descriptions of the categories follow.

### Category A – Fifty Percent of the Fair Market Value of the Property

Fair market value means, “the amount defined in §110 pursuant to an appraisal of the property by the county assessor within one year immediately preceding the date of publication. The value of the property as determined by the assessor pursuant to an appraisal shall be conclusively presumed to be the fair market value of the property for the purpose of determining the minimum price at which the property may be offered for sale” (§3698.7(a)(1)).

### Category B – The Total Amount Necessary to Redeem the Property, Plus Costs

Category B includes the following (these are the same totals of all factors outlined in §3698.5):

- 1) Accumulated amount of all unpaid delinquent taxes
- 2) Delinquent penalties and interest
- 3) Redemption penalties
- 4) Redemption fee (§4102 (d))
- 5) Additional costs. Costs are described in §3704.7(c), §4112(a) and (b), §4672, §4672.1, §4672.2, §4673, and §4673.1(b) and include:
  - a) A minimum of \$35 for the cost of obtaining the names and addresses of the parties of interest and the cost of mailing notices to these entities for each parcel, pursuant to §4112(a)(1). If the cost exceeds \$35, the charge can be increased to reflect the actual cost. For similar items, the charge may be established in terms of an average total cost rather than calculating the total cost of each item (Government Code §54985(a)).

Indirect costs as specified in the federal Office of Management and Budget Circular A-87 on January 1, 1984, may be included.

All the above-referenced costs and any increases for charge amounts should be reflected in the office fee schedule, which, if necessary, is annually adjusted by the county board of supervisors.

- b) \$6, pursuant to §4112(a)(2). This cost references a required fee for recording any notice by a county, pursuant to Government Code §27361.3. If the cost has increased, the current rate may be applied.

- c) \$1.50 State fee (§4672)
- d) \$150 county fee (§4112(a)(3))
- e) Personal contact or posting of property costs, if applicable (§4112(a)(4))
- f) Publication cost. This cost must be estimated because the publication notice takes place several procedures after the minimum selling price is established (§4673).
- g) Up to \$100 for each parcel that is a primary residence for the last known assessee (§3704.7(c)). Indicators of this condition include:
  - 1. A valid homeowner's exemption
  - 2. Any evidence showing that the mailing address on the tax bill is the same as the situs (§3704.7).

### III. Process to Address an Injunction

If an injunction is brought against a particular parcel to prevent it from being sold at a tax sale, take the following steps.

**Step 1:** Notify county counsel.

- Step 2:**
- *If county counsel is unable to lift the injunction or restraining order before the date of the sale, or if the hearing is within 60 days of the sale, the State Controller's Office recommends that you announce a postponement of the sale of the affected property (§3706.1).*
  - *If the order is lifted before the originally set date of sale or a court hearing is scheduled for more than 60 days before the sale date, hold the sale as announced.*



## IV. Calculating the Power of Sale Schedule for Disaster-Damaged Property

Consider the following steps in order to calculate when property damaged by a local, state, or federally declared disaster is subject to power of sale.

### Step 1: Calculate the Total Default Time

The default status for disaster-damaged property is suspended (tolled) until substantial repair is made or after five years have passed, whichever comes first. A disaster-damaged property is tolled during this time and is not subject to power of sale in the standard five consecutive years after the initial date of default. Use the equation below to incorporate the time period during which default was suspended into the overall default time, from the date that the property first became defaulted to the current date.

$$X - Y = 5 \text{ years or more}$$

**X** represents the total time the parcel has been in default status, i.e., the current date minus the date the property first became defaulted. For example: Current date 11/01/2002 minus default date 07/01/1995 = 7 years and 4 months.

**Y** represents the total time the parcel has been in suspended default (tolled), i.e., the date the property was substantially repaired minus the date the damage occurred. For example: Repair date 8/01/2000 minus damage date 05/01/1997 = 3 years and 3 months.

In the example provided, the sum of  $X - Y$  (7 years, 4 months – 3 years, 3 months) is 4 years and 1 month, which is less than 5 years. Thus, the property is not subject to power of sale, nor can it be offered for sale.

Once five years of default have passed for disaster-damaged property, additional considerations remain regarding the parcel becoming subject to power to sell. See Step 2.

### Step 2: Calculate the Power of Sale Schedule

Assuming that the calculation in Step 1 has shown that a disaster-damaged property's total default time, less the suspended default time, exceeds five years, the next step is to determine when the property becomes subject to power of sale. The law states that all property that has been defaulted for five years or more becomes subject to power of sale as of 12:01 p.m. on July 1 of the fifth year of default.

The Notice of Impending Power to Sell must be published on or before June 8 of the fifth year of default. If the tax collector fails to provide such notice, or the property has *not* been defaulted for five years or more as of June 8 of a given year (and thus could not be included in the notice), any sale made until proper notice is provided—within the statutory guidelines—would be invalid.

As such, if a disaster-damaged property's five-year default time is calculated to occur just after June 8 of a given year, the parcel would not qualify for inclusion in the current notice; it would have to appear in the following year's notice. Accordingly, it would not be subject to the power of sale until the following year.

## V. Frequently Asked Questions

Members of the public frequently ask the following questions with regard to public auction sales. The answers provided are general responses. *Your answers should reflect the specific conditions of your sale and the policies of your office.*

*Q. Can I mail in or submit a sealed bid for a property in the auction?*

A. No. The public auction requires you or your representative to be present in order to bid on the properties.

*Q. Can I obtain a property available at the tax sale by paying the delinquent taxes on it prior to the tax sale date?*

A. No. Legal title to tax-defaulted property subject to the tax collector's power to sell can be obtained only by being the successful bidder at the tax sale.

*Q. How do I find or see a property I'd like to bid on at the tax sale?*

A. While we try in every way to help prospective purchasers identify a property location, we can provide only the approximate geographic location for vacant land (which accounts for most of the property offered at our tax sale). Vacant, or unimproved, land has no address. Its approximate location can be determined through the use of county assessor plat maps and perhaps a map book. Exact boundary lines of a property can be determined only by conducting a survey of the property, initiated at the purchaser's expense. Improved properties frequently (but not always) bear a situs (street address).

*Q. How does a bidder pay for property offered at the tax sale?*

A. Payment must be made in cash or certified funds (cashier's check, certified bank check, money order, or traveler's check, with proper identification) or by electronic funds transfer. Personal checks are not accepted.

*Q. What are the conditions of payment for a property at the tax sale?*

A. All sales require full payment, which includes the transfer tax and recording fee. At the tax collector's discretion, purchases over \$5,000 may be paid for on a credit payment plan, but they still require a deposit at the time of sale of 10% of the minimum bid amount or \$5,000, whichever is greater. According to the Revenue and Taxation Code, the balance is payable in lawful money of the United States, negotiable paper or electronic funds transfer, as specified by the tax collector, within a period specified by the tax collector, not to exceed 90 days from the date of the auction, as a condition precedent to the transfer of title to the purchaser. If the balance due is not paid within the period specified, the deposit is forfeited, along with all rights with respect to the property (§3693.1).

*Q. Do liens or encumbrances on a tax-defaulted property transfer to the new owner after purchase of the property at a tax sale?*

A. Revenue and Taxation Code §3712 states:

The deed conveys title to the purchaser free of all encumbrances of any kind existing before the sale, except for:

- a) Any lien for installments of taxes and special assessments; installments will become payable upon the secured roll after the time of the sale.
- b) The lien for taxes or assessments or other rights of any taxing agency that does not consent to the sale under this chapter.
- c) Liens for special assessments levied upon the property conveyed that were, at the time of the sale under this chapter, not included in the amount necessary to redeem the tax-defaulted property and, where a taxing agency that collects its own taxes has consented to the sale under this chapter, were not included in the amount required to redeem from sale to the taxing agency.
- d) Easements constituting servitudes upon or burdens to the property; water rights, the record title to which is held separately from the title to the property; and restrictions of record.
- e) Unaccepted, recorded, irrevocable offers of dedication of the property to the public or a public entity for a public purpose, and recorded options of any taxing agency to purchase the property or any interest therein for a public purpose.
- f) Unpaid assessments under the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code) that are not satisfied as a result of the sale proceeds being applied pursuant to Chapter 1.3 (commencing with Section 4671) of Part 8.
- g) Any federal Internal Revenue Service liens that, pursuant to provisions of federal law, are not discharged by the sale, even though the tax collector has provided proper notice to the Internal Revenue Service before that date.
- h) Unpaid special taxes under the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code) that are not satisfied as a result of the sale proceeds being applied pursuant to Chapter 1.3 (commencing with Section 4671) of Part 8.

*Q. When does the right to redeem a tax-defaulted parcel subject to the power to sell cease?*

A. The right ceases at the close of business on the last business day prior to the sale.

*Q. How can I determine what use I can make of a tax sale property before I purchase it?*

A. Consult the zoning department of any city within which a property lies or the zoning section of the county department of planning and land use for a parcel in an unincorporated area (not within a city boundary). Examine the county recorder's records for any recorded easements on a property. You can also order a title search report from a local title insurance company.

*Q How soon can I take possession of a property that I purchase at the tax sale?*

- A. You should consult an attorney. Generally, the successful bidder may take possession of a property after making payment in full and complying with any conditions set forth by the tax collector.

*Q. How is the minimum price determined on a property offered at a tax sale?*

- A. State law dictates that the minimum price for a tax-defaulted parcel offered at a public auction for the first time shall be no less than the total amount necessary to redeem the parcel, plus costs. The minimum bid may be set at a greater amount at the tax collector's discretion.

*Q. Is a tax sale publicly advertised?*

- A. Yes. State law dictates that notice of a tax sale must be published three times in successive seven-day intervals before the tax sale date, in a general-circulation newspaper published in the county.

*Q. How will title in the deed to the purchaser be vested?*

- A. Title is vested in the name of the actual purchaser. If title is to be vested differently, we require a notarized letter from the individual you are representing, stating the manner in which title is to be vested.

## VI. Index of Public Auction Forms (PAFs)

Following is a list of forms relevant to the preparation, execution, and completion of a public auction sale. The corresponding form numbers from the *County Tax Collectors Reference Manual* are provided to facilitate cross-referencing between this handbook and the manual.

<b>Form #</b>	<b>(Manual No.)</b>	<b>Page</b>
PAF-1	(SCO 8-04.3) .....	<b>5</b>
PAF-2	(SCO 8-01) .....	<b>8</b>
PAF-3A	(SCO 8-02) .....	<b>17</b>
PAF-3B	(SCO 8-03) .....	<b>18</b>
PAF-4	(SCO 8-04.1) .....	<b>23</b>
PAF-5	(SCO 8-05.1) .....	<b>28</b>
PAF-6	(SCO 8-05.3) .....	<b>31</b>
PAF-7	(SCO Figure 9.5) .....	<b>35</b>
PAF- 8	(SCO 9-02) .....	<b>36</b>
PAF-9	(SCO 5-08) .....	<b>40</b>
PAF-10	(SCO 5-09) .....	<b>41</b>
PAF-11	(SCO 8-06) .....	<b>48</b>
PAF-12	(SCO 8-24) .....	<b>49</b>
PAF-13	(SCO 8-19) .....	<b>52</b>
PAF-14	(SCO 8-07) .....	<b>56</b>
PAF-15	(SCO 8-20) .....	<b>59</b>
PAF-16	(SCO 8-21) .....	<b>60-61</b>
PAF-17	(SCO 8-26) .....	<b>68-69</b>

## VII. Referenced Code Sections

Following are excerpts of the actual text from sections of the Revenue and Taxation Code, the Government Code, and the United States Code. These are the sections of the codes cited in this handbook.

### Revenue and Taxation Code

Section	Statute Text
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§121	"Taxing agency" includes the State, county, and city. "Taxing agency" also includes every district that assesses property for taxation purposes and levies taxes or assessments on the property so assessed.
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§122	"Revenue district" includes every city and district for which the county officers assess property and collect taxes or assessments.
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§480	<p>(a) Whenever there occurs any change in ownership of real property or of a manufactured home that is subject to local property taxation and is assessed by the county assessor, the transferee shall file a signed change in ownership statement in the county where the real property or manufactured home is located, as provided for in subdivision (c). In the case of a change in ownership where the transferee is not locally assessed, no change in ownership statement is required.</p> <p>(b) The personal representative shall file a change in ownership statement with the county recorder or assessor in each county in which the decedent owned real property at the time of death that is subject to probate proceedings. The statement shall be filed prior to or at the time the inventory and appraisal is filed with the court clerk. In all other cases in which an interest in real property is transferred by reason of death, including a transfer through the medium of a trust, the change in ownership statement or statements shall be filed by the trustee (if the property was held in trust) or the transferee with the county recorder or assessor in each county in which the decedent owned an interest in real property within 150 days after the date of death.</p> <p>(c) Except as provided in subdivision (d), the change in ownership statement as required pursuant to subdivision (a) shall be declared to be true under penalty of perjury and shall give that information relative to the real property or manufactured home acquisition transaction as the board shall prescribe after consultation with the California Assessors' Association. The information shall include, but not be limited to, a description of the property, the parties to the transaction, the date of acquisition, the amount, if any, of the consideration paid for the property, whether paid in money or otherwise, and the terms of the transaction. The change in ownership statement shall not include any question that is not germane to the assessment function.</p>
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**§480  
(cont.)**

The statement shall contain a notice informing the transferee of the property tax relief available under Section 69.5. The statement shall contain a notice that is printed, with the title in at least 12-point boldface type and the body in at least 8-point boldface type, in the following form:

**"Important Notice"**

"The law requires any transferee acquiring an interest in real property or manufactured home subject to local property taxation, and that is assessed by the county assessor, to file a change in ownership statement with the county recorder or assessor. The change in ownership statement must be filed at the time of recording or, if the transfer is not recorded, within 45 days of the date of the change in ownership, except that where the change in ownership has occurred by reason of death the statement shall be filed within 150 days after the date of death, or if the estate is probated, shall be filed at the time the inventory and appraisal is filed. The failure to file a change in ownership statement within 45 days from the date of a written request by the assessor results in a penalty of either: (1) one hundred dollars (\$100), or (2) 10 percent of the taxes applicable to the new base year value reflecting the change in ownership of the real property or manufactured home, whichever is greater, but not to exceed two thousand five hundred dollars (\$2,500) if that failure to file was not willful. This penalty will be added to the assessment roll and shall be collected like any other delinquent property taxes, and be subject to the same penalties for nonpayment."

- (d) The change in ownership statement may be attached to or accompany the deed or other document evidencing a change in ownership filed for recording in which case the notice, declaration under penalty of perjury, and any information contained in the deed or other transfer document otherwise required by subdivision (c) may be omitted.
- (e) If the document evidencing a change in ownership is recorded in the county recorder's office, then the statement shall be filed with the recorder at the time of recordation. However, the recordation of the deed or other document evidencing a change in ownership shall not be denied or delayed because of the failure to file a change of ownership statement, or filing of an incomplete statement, in accordance with this subdivision. If the document evidencing a change in ownership is not recorded or is recorded without the concurrent filing of a change in ownership statement, then the statement shall be filed with the assessor no later than 45 days from the date the change in ownership occurs, except that where the change in ownership has occurred by reason of death the statement shall be filed within 150 days after the date of death, or, if the estate is probated, shall be filed at the time the inventory and appraisal is filed.

**§3691**

**(a) (1) (A)** Five years or more, or three years or more in the case of nonresidential commercial property, after the property has become tax defaulted, the tax collector shall have the power to sell and shall attempt to sell in accordance with Section 3692 all or any portion of tax-defaulted property that has not been redeemed, without regard to the boundaries of the parcels, as provided in this chapter, unless by other provisions of law the property is not subject to sale. Any person, regardless of any prior or existing lien on, claim to, or interest in, the property, may purchase at the sale. In the case of tax-defaulted property that has been damaged by a disaster in an area declared to be a disaster area by local, state, or federal officials and whose damage has not been substantially repaired, the five-year period set forth in this subdivision shall be tolled until five years have elapsed from the date the damage to the property was incurred.

**(B)** A county may elect, by an ordinance or resolution adopted by a majority vote of its entire governing body, to have the five-year time period described in subparagraph (A) apply to tax-defaulted nonresidential commercial property.

**(C)** For purposes of this subdivision, "nonresidential commercial property" means all property except the following:

**(i)** A constructed single-family or multifamily unit that is intended to be used primarily as a permanent residence, is used primarily as a permanent residence, or that is zoned as a residence, and the land on which that unit is constructed.

**(ii)** Real property that is used and zoned for producing commercial agricultural commodities.

**(2)** When a part of a tax-defaulted parcel is sold, the balance continues subject to redemption and shall be separately valued for the purpose of redemption in the manner provided by Chapter 2 (commencing with Section 4131) of Part 7.

**(3)** The tax collector shall provide notice of an intended sale under this subdivision in the manner prescribed by Sections 3704 and 3704.5 and any other applicable statute. If the intended sale is of nonresidential commercial property that has been tax-defaulted for fewer than five years, all of the following apply:

**(A)** On or before the notice date, the tax collector shall also mail, in the manner specified in paragraph (1) of subdivision (c) of Section 2924b of the Civil Code, notice containing any information contained in the publication required under Sections 3704 and 3704.5 to, as applicable, all of the following:

**(i)** The parties specified in paragraph (2) of subdivision (c) of Section 2924b of the Civil Code.

**(ii)** Each taxing agency specified in paragraph (3) of subdivision (c) of Section 2924b of the Civil Code.

**(iii)** Any beneficiary of a deed of trust or a mortgagee of any mortgage recorded against the nonresidential commercial property, and any assignee or vendee of these beneficiaries or mortgagees.



**§3691**  
**(cont.)**

**(B)** For purposes of this paragraph:

**(i)** "Notice date" means a date at least 90 days before an intended sale or at least 90 days before the date upon which the property may be sold.

**(ii)** "Recording date of the notice of default" as used in subdivision (c) of Section 2924b of the Civil Code means a date that is 30 days before the notice date.

**(iii)** "Deed of trust or mortgage being foreclosed" as used in subdivision (c) of Section 2924b of the Civil Code means the defaulted tax lien.

**(b) (1) (A)** Three years or more after the property has become tax defaulted and subject to a nuisance abatement lien or a request has been made by a city, county, city and county, or nonprofit organization, pursuant to Section 3692.4, to offer that property at the next scheduled public auction, the tax collector shall have the power to sell and may sell all or any portion of tax-defaulted property that has not been redeemed, without regard to the boundaries of parcels, as provided in this chapter, unless by other provisions of law the property is not subject to sale. Any person, regardless of any prior or existing lien on, claim to, or interest in, the property, may purchase at the sale.

**(B)** When a part of a tax-defaulted parcel is sold, the balance continues subject to redemption and shall be separately valued for the purpose of redemption in the manner provided by Chapter 2 (commencing with Section 4131) of Part 7.

**(2)** Before the tax collector sells vacant residential developed property pursuant to this subdivision, actual notice, by certified mail, shall be provided to the property owner, if the property owner's identity can be determined from the county assessor's or county recorder's records. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice.

**(3)** Before the tax collector sells vacant residential developed property pursuant to this subdivision, notice of the sale shall be given in the manner specified by Section 3704.7.

**(c)** The amendments made to this section by the act adding this subdivision, apply to property that becomes tax defaulted on or after January 1, 2005.

**§3691.6** Upon request of the Controller, the tax collector shall report the disposition of all tax-defaulted parcels subject to tax collections power to sale in his or her county.

**§3692** **(a)** The tax collector shall attempt to sell tax-defaulted property, as provided in this chapter, within four years of the time that the property becomes subject to sale for nonpayment of taxes unless, by other provisions of law, the property is not subject to sale. If there are no acceptable bids at the attempted sale, the tax collector shall attempt to sell the property at intervals of no more than six years until the property is sold.

**§3692**

**(cont.)**

- (b)** When oil, gas, or mineral rights are subject to sale for nonpayment of taxes, the tax collector may offer the interest at minimum bid to the holders of outstanding interests where the interest subject to sale is a partial interest or, where the interest subject to sale is a complete and undivided interest, to the owner or owners of the property to which the oil, gas, or mineral rights are appurtenant.
- (c)** When parcels that are rendered unusable by their size, location, or other conditions are subject to sale for nonpayment of taxes, the tax collector may offer the parcel, at a minimum bid, to owners of contiguous parcels or to a holder of record of either a predominant easement or a right-of-way easement. If the parcel is sold to a contiguous property owner, the tax collector shall require that the successful bidder request the assessor and the planning director to combine the unusable parcel with the bidder's own parcel as a condition of sale.
- (d)** Sealed bid sale procedures shall be used when offers are made pursuant to subdivision (b) or subdivision (c), and the property shall be sold to the highest eligible bidder. The offers shall remain in effect for 30 days or until notice is given pursuant to Section 3702, whichever is later.
- (e)** The Notice to the Board of Supervisors and Notice of Intended Sale of Tax-Defaulted Property shall indicate that any parcel remaining unsold may be reoffered within a 90-day period and any new parties of interest shall be notified in accordance with Section 3701. This subdivision does not apply to properties sold pursuant to Chapter 8 (commencing with Section 3771).

**§3692.1**

Notwithstanding any other provision of law, for purposes of this chapter, all of the following apply:

- (a)** "Close of auction" means the date and time for which the tax collector, or his or her designee, provides public notice of both of the following:

  - (1)** That no additional property will be offered for sale for that public auction.
  - (2)** That bidding for that public auction will end.
- (b)** "Date of the sale" means the date upon which a public auction begins.
- (c)** "Public auction" means any venue or medium to sell property under this chapter that provides reasonable access to the public to bid on and purchase this property.

- §3692.3** (a) All property sold under this chapter is offered and sold as is.
- (b) The state, the county, and an employee of these entities acting in the employee's official capacity in preparing, conducting, and executing a sale of property under this chapter, are not liable for any of the following:
- (1) Known or unknown conditions of this property, including, but not limited to, errors in the assessor's records pertaining to improvement of the property.
  - (2) The failure of a device that is not owned, operated, and managed by the state or county, that prevents a person from participating in any sale under this chapter. For purposes of this paragraph, "device" includes, but is not limited to, computer hardware, a computer network, a computer software application, and a computer Web site.
- 3692.4** (a) Notwithstanding any other provision of law, any county, city, city and county, or any nonprofit organization as defined in Section 3772.5, may request the tax collector to bring the next scheduled public auction any residential real property that meets all of the following requirements:
- (1) The property taxes have been delinquent for at least three years.
  - (2) The real property will serve the public benefit of providing housing directly related to low-income persons.
  - (3) The real property is not occupied by the owner as his or her principal place of residence.
- (b) Every request submitted to the tax collector shall include the following:
- (1) A formal resolution of the governing board of the county, city, city and county, or nonprofit organization, requesting the accelerated auction of the real property and stating the public benefit.
  - (2) A written plan for the development, rehabilitation, or proposed use of the real property and how low-income persons will be served.
  - (3) If the request is from a nonprofit organization, the request shall have a formal resolution of approval from the city council of the city in which the real property is located, or from the board of supervisors of the county if the real property is located in an unincorporated area.
- (c) Upon receiving a request as provided by this section, the tax collector shall include the real property in the next scheduled public auction.
- (d) (1) If the real property is acquired by a nonprofit organization at auction, a deed restriction shall be placed on the real property, requiring the real property to be used for low-income housing for a period of *at least* 30 years.

**(3692.4)**

**(cont.)**

**(2)(A)** In lieu of the 30-year restriction required by paragraph (1), the deed may provide for equity sharing upon resale, if the real property is a single-family home that will be sold by the nonprofit organization to a low-income owner-occupant.

**(B)** To the extent not in conflict with another public funding source or law, all of the following shall apply to an equity-sharing agreement provided for by the deed:

**(i)** Upon resale by an owner-occupant of the home, the owner-occupant of the home shall retain the market value of any improvements, the downpayment, and his or her proportionate share of appreciation. The nonprofit organization shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used for the purpose of providing financial assistance to low-income homebuyers.

**(ii)** For purposes of this subdivision, the initial subsidy shall be equal to the fair market value of the home at the time of initial sale to the nonprofit organization minus the initial sale price to the low-income owner-occupant, plus the amount of any downpayment assistance or mortgage assistance. If upon resale by the owner-occupant the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

**(iii)** For purposes of this subdivision, the nonprofit organization's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of initial sale.

**(e)** This section may not be construed to preclude the application, to the real property or the current owners of that property, of any other provision of law not in conflict with this section.

**§3693**

**(a)** With the exception of the sealed bid sale procedures authorized under Section 3692, all sales pursuant to this chapter shall be at public auction to the highest bidder. The amount of the high bid shall be paid by any method of payment authorized by Section 2502, 2503.2, or 2504, which method is at the discretion of the tax collector. Unless otherwise specified by the tax collector, payment is due on or before the close of auction.

**(b)** The tax collector may require a person to submit a deposit, by any method of payment authorized by Section 2502, 2503.2, or 2504, for the purposes specified in this subdivision. A tax collector requiring a deposit pursuant to Section 3693.1 may determine, and shall provide public notice before the date of the sale upon determining, all of the following:

**(1)** The method of payment of this deposit.

**(2)** The amount of this deposit.

**(3)** The due date of this deposit.

**(4)** Whether the deposit will be applied for one or more of the following purposes:

**§3693**  
**(cont.)**

**(A)** As a condition to submitting a bid on property that is being sold under this chapter.

**(B)** As a payment toward specified property that is being sold under this chapter. If a deposit is applied for this purpose, the deposit may be applied as payment toward more than one specified property based upon the amount of the minimum bid for each property.

**§3693.1** Notwithstanding Section 3693, the tax collector may make the sale of any property sold under this chapter a cash or deferred-payment transaction. If the tax collector approves the sale as a deferred-payment transaction, the tax collector may require a deposit in the amount of five thousand dollars (\$5,000) or 10 percent of the minimum bid price, whichever is greater. The balance of the purchase price shall be paid by any method of payment authorized by Section 2502, 2503.2, or 2504, as specified by the tax collector and within a period specified by the tax collector not to exceed 90 days from the date of the close of auction as a condition precedent to the transfer of title to the purchaser. If the purchaser was required to pay a deposit prior to the date of the sale, the deposit shall be applied toward the purchase price of the property. Failure on the part of the successful bidder to consummate the sale within the period specified by the tax collector shall result in the forfeiture of the deposit and all rights he or she may have with respect to that property. Any forfeiture of deposit shall be distributed to the county general fund and shall not apply to outstanding delinquent taxes. Upon forfeiture the right of redemption shall revive.

**§3694** A sale under this chapter shall take place only if approved by the board of supervisors.

**§3698** To make any sale under this chapter, the tax collector shall transmit a notice to the board of supervisors, stating:

- (a)** His intention to make a sale under this chapter, and the type of sale;
- (b)** A description of the property to be sold;
- (c)** The minimum price at which it is proposed to sell the property.

**§3698.5** **(a)** Except as provided in Section 3698.7, the minimum price at which property may be offered for sale pursuant to this chapter shall be an amount not less than the total amount necessary to redeem, plus costs. For purposes of this subdivision:

**(1)** The "total amount necessary to redeem" is the sum of the following:

- (A)** The amount of defaulted taxes.
- (B)** Delinquent penalties and costs.
- (C)** Redemption penalties.

**§3698.5**  
**(cont.)**

**(D)** A redemption fee.

**(2)** "Costs" are those amounts described in subdivision (c) of Section 3704.7, subdivisions (a) and (b) of Section 4112, Section 4672, 4672.1, 4672.2, 4673, and subdivision (b) of Section 4673.1.

**(b)** This section shall not apply to property or interests that qualify for sale in accordance with the provisions of subdivisions (b) and (c) of Section 3692.

**(c)** Where the property or property interests have been offered for sale at least once and no acceptable bids therefor have been received at the minimum price determined pursuant to subdivision (a), the tax collector may, in his or her discretion and with approval of the board of supervisors, offer that same property or those interests at the same or next scheduled sale at a minimum price that the tax collector deems appropriate in light of the most current assessed valuation of that property or those interests, or any unique circumstances with respect to that property or those interests.

**§3698.7**

**(a)** With respect to property for which a property tax welfare exemption has been granted and that has become tax-defaulted, the minimum price at which the property may be offered for sale pursuant to this chapter shall be the higher of the following:

**(1)** Fifty percent of the fair market value of the property. For the purposes of this paragraph, "fair market value" means the amount as defined in Section 110 as determined pursuant to an appraisal of the property by the county assessor within one year immediately preceding the date of the public auction. From the proceeds of the sale, there shall be distributed to the county general fund an amount to reimburse the county for the cost of appraising the property. The value of the property as determined by the assessor pursuant to an appraisal shall be conclusively presumed to be the fair market value of the property for the purpose of determining the minimum price at which the property may be offered for sale.

**(2)** The total amount necessary to redeem, plus costs. For purposes of this paragraph:

**(A)** The "total amount necessary to redeem" is the sum of the following:

- (i)** The amount of defaulted taxes.
- (ii)** Delinquent penalties and costs.
- (iii)** Redemption penalties.
- (iv)** A redemption fee.

**(B)** "Costs" are those amounts described in subdivision (c) of Section 3704.7, subdivisions (a) and (b) of Section 4112, Sections 4672, 4672.1, 4672.2, and 4673, and subdivision (b) of Section 4673.1.

**(b)** This section shall not apply to property or interests that qualify for sale in accordance with the provisions of subdivisions (b) and (c) of Section 3692.

**§3698.7****(cont.)**

- (c) Where property or property interests have been offered for sale at least once and no acceptable bids therefor have been received, the tax collector may, in his or her discretion and with the approval of the board of supervisors, offer that property or those interests at the next scheduled sale at a minimum price that the tax collector deems appropriate.

**§3698.8**

The tax collector, upon the recommendation of county counsel, may remove a parcel from the tax sale if it is deemed the removal is in the best interest of the county. The tax collector shall notify the controller, in writing, whenever a parcel is removed from a tax sale.

**§3700**

Upon providing notice to the board of supervisors as required by Section 3698, the tax collector shall forward one copy to the clerk or secretary of the governing board of each taxing agency, other than the county, having the right to levy taxes or assessments on the property and may forward one copy to each nonprofit organization that has submitted, within one year prior to the next scheduled tax sale or prior to July 31 of the current calendar year, a written request to the tax collector for notification. The copy or copies shall be mailed or delivered at least 30 days before the first publication or posting of the notice of intended sale. However, where the tax collector has on file a consent from each taxing agency, the tax collector may proceed to publish or post the notice of sale.

**§3700.5**

Not less than 45 days nor more than 120 days before the proposed sale, the tax collector shall send notice of the proposed sale to the Controller. The notice shall state the date, time, and place of the proposed sale. The tax collector shall notify the Controller of any postponement of the tax sale and the date, time, and place of the sale.

**§3701**

Not less than 45 days nor more than 120 days before the proposed sale, the tax collector shall send notice of the proposed sale by certified mail with return receipt requested to the last known mailing address, if available, of parties of interest, as defined in Section 4675.

The notice shall state the date, time, and place of the proposed sale, the amount required to redeem the property, and the fact that the property may be redeemed up to the close of business on the last business day prior to the date of sale, and information regarding the rights of parties of interest to claim excess proceeds, as defined in Section 4674, if the property is sold and excess proceeds result from that sale.

The tax collector shall make a reasonable effort to obtain the name and last known mailing address of parties of interest.

The validity of any sale under this chapter shall not be affected if the tax collector's reasonable effort fails to disclose the name and last known mailing address of parties of interest or if a party of interest does not receive the mailed notice.

- §3702** The tax collector shall publish the notice of intended sale once a week for three successive weeks in a newspaper of general circulation published in the county seat and in a newspaper of general circulation published in the judicial district in which the property is situated. If the same newspaper of general circulation is published in both the county seat and in such district, or if the publication of the notice of sale is made in a newspaper which is determined pursuant to Section 3381 as most likely to afford adequate notice of the sale, a publication in such paper shall satisfy the requirements for publication set forth in this section. If there is no newspaper published in the county seat or in the judicial district, then publication may be made by posting notice in three public places in the county seat or in the judicial district, as the case may be, where no such newspaper is published. The publication shall be started not less than 21 days prior to the date of the sale.
- §3703** If in the judgment of the board of supervisors any property to be sold under this chapter will bring at auction less than the cost of publication in a newspaper, the publication of the notice of intended sale may be made in the same manner as if there were no newspaper published in the county seat or in the judicial district.
- §3704** The notice of intended sale shall include all of the following:
- (a) The date, time, and place of the intended sale, including the electronic address if the intended sale is by public auction via the Internet or other electronic media.
  - (b) The locations of computer workstations that are available to the public and instruction on accessing the public auction and submitting bids if the intended sale is conducted via the Internet or other electronic media.
  - (c) A description of the property to be sold.
  - (d) The name of the last assessee of the property.
  - (e) The minimum acceptable bid of the property to be sold.
  - (f) A statement that if the property is not redeemed before the close of business on the last business day prior to the date of the sale, the right of redemption will cease.
  - (g) A statement that if the property is sold, parties of interest, as defined in Section 4675, have the right to file a claim with the county for any proceeds from the sale which are in excess of the liens and costs required to be paid from the proceeds.
  - (h) A statement that if excess proceeds result from the sale, notice will be given to parties of interest, pursuant to law.
  - (i) A statement that if the parcel remains unsold after the tax sale, the date, time, and location of any subsequent sale.
  - (j) If applicable, that a deposit is required as a condition to submit bids on the property.



**§3704****(cont.)**

- (k)** If applicable, a statement that, for any property purchased by a credit transaction, the right of redemption will revive if full payment is not received by the tax collector prior to the close of business on the date, as specified by the tax collector under Section 3693.1, that full payment is due.

**§3704.7**

- (a)** In the case of a property that is the primary residence of the last known assessee, as indicated by either a valid homeowner's exemption on file with the county assessor in the name of the last known assessee, or the fact that the mailing address for the last tax bill is the same address as the property, the tax collector or his or her agent shall, in addition to any other notice required by this chapter, make a reasonable effort to contact in person, not more than 120 days or less than 10 days prior to the date of sale, the owner-occupant of that property. In the course of the personal contact, the tax collector, or his or her agent, shall inform the owner-occupant of the following:

- (1)** That the property, if not redeemed, shall be offered for sale at a public auction.

- (2)** His or her redemption rights pursuant to Part 7 (commencing with Section 4101).

- (b)** If the personal contact described in subdivision (a) is not made after reasonable efforts, the tax collector or his or her agent shall attempt to serve written notice, no less than five days prior to the date of the sale, with respect to the fact of the sale and the requirement that the tax collector be contacted immediately with respect to redemption of the property.
- (c)** The amount of the actual and reasonable costs incurred by the tax collector, or his or her agent, or both, in complying with the requirements of subdivisions (a) and (b), not to exceed one hundred dollars (\$100), shall be added to the required amount for redemption of the property.
- (d)** No transfer of title shall be invalidated by reason of failure to comply with the requirements of this section.

**§3706**

If the property is not redeemed before the close of business on the last business day prior to the date of the sale of the property, the tax collector shall sell the property at public auction to the highest bidder at the time and place fixed.

In the case of a sale at public auction, no bid shall be accepted for a sum less than the minimum price approved in the resolution of the board of supervisors; provided, however, the tax collector may reduce such minimum price when a partial redemption has been made under Chapter 2, Part 7, Division 1 of this code, or when a partial cancellation has been made under Chapter 4, Part 9, Division 1 of this code, after such price was fixed, by not more than the ratio that the delinquency on the portion so redeemed or canceled bears to the delinquency upon the whole.

- §3706.1** The tax collector may postpone the tax sale or any portion thereof under the following conditions:
- (a) Notice of any postponement of a public auction tax sale shall be made by the tax collector who, by public declaration at the time and place originally fixed for the public auction, may postpone the sale to a new time, date, and place. No other notice of the postponed public auction need be given if the date for the new time, date, and place is within seven days of the time originally fixed for the sale.
  - (b) Notice of any postponed sealed-bid sale or postponed public auction sale that is to be held not less than eight days nor more than 60 days from the time originally fixed for the sale, shall be made pursuant to the same provisions followed in providing notice of the original sale to parties of interest, as defined in Section 4675.
- §3707**
- (a) (1) The right of redemption shall terminate at the close of business on the last business day prior to the date the sale begins.
  - (2) If the tax collector approves a sale as a credit transaction and does not receive full payment on or before the date upon which the tax collector requires pursuant to Section 3693.1, the right of redemption is revived on the next business day following that date.
  - (b) Notwithstanding any other provision of law, any remittance sent by mail for redemption of tax-defaulted property must be received in the tax collector's office prior to the time established in subdivision (a).
  - (c) The sale shall be deemed complete when a qualified bid is accepted by the tax collector.
  - (d) The right of redemption revives if the property is not sold.
- §3708** On receiving the full purchase price at any sale under this chapter, the tax collector shall, without charge, execute a deed to the purchaser.
- §3708.1** Upon execution, the tax collector shall immediately record the deed with the county recorder and pay the recording fees. Recording of the deed shall constitute delivery thereof to the grantee named in the deed.
- §3708.5** If a deed to the purchaser contains a clerical error or misstatement of fact, a corrected deed may be issued by the tax collector and recorded with the county recorder without charge. The new deed shall contain a statement of reasons for its issuance and, as far as practical, shall be the same as the original except where corrected.
- §3710** In addition to the usual provisions of a deed conveying real property, the deed shall specify all of the following:

**§3710****(cont.)**

- (a) That the legally levied taxes on the subject property were duly declared to be in default and were a lien on the property.
- (b) That the tax collector, pursuant to a statutory power of sale, has sold the property.
- (c) If a taxing agency objected to the sale, the fact of the objection and the name of the objecting taxing agency.
- (d) The name of the purchaser, the date the property was sold, and the amount for which the property was sold.
- (e) That the property is therefore conveyed to the purchaser according to law.

**§3712**

The deed conveys title to the purchaser free of all encumbrances of any kind existing before the sale, except:

- (a) Any lien for installments of taxes and special assessments, which installments will become payable upon the secured roll after the time of the sale.
- (b) The lien for taxes or assessments or other rights of any taxing agency which does not consent to the sale under this chapter.
- (c) Liens for special assessments levied upon the property conveyed which were, at the time of the sale under this chapter, not included in the amount necessary to redeem the tax-defaulted property, and, where a taxing agency which collects its own taxes has consented to the sale under this chapter, not included in the amount required to redeem from sale to the taxing agency.
- (d) Easements constituting servitudes upon or burdens to the property; water rights, the record title to which is held separately from the title to the property; and restrictions of record.
- (e) Unaccepted, recorded, irrevocable offers of dedication of the property to the public or a public entity for a public purpose, and recorded options of any taxing agency to purchase the property of any interest therein for a public purpose.
- (f) Unpaid assessments under the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), which are not satisfied as a result of the sale proceeds being applied pursuant to Chapter 1.3 (commencing with Section 4671) of Part 8.
- (g) Any federal Internal Revenue Service liens which, pursuant to provisions of federal law, are not discharged by the sale, even though the tax collector has provided proper notice to the Internal Revenue Service before that date.
- (h) Unpaid special taxes under the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code) that are not satisfied as a result of the sale proceeds being applied pursuant to Chapter 1.3 (commencing with Section 4671) of Part 8.

- §3716** Within 10 days after the sale, the tax collector shall report to the assessor:
- (a) The name of the purchaser.
  - (b) The date of sale.
  - (c) The amount for which the property was sold.
  - (d) The description of the property conveyed.
- §3718** The tax collector shall deposit the money received from the sale like tax collections and shall immediately transmit a report of sale to the county treasurer and a duplicate of the report to the county auditor. The report shall show:
- (a) The cost of advertising the sale, including but not limited to the published notice required by Section 3702.
  - (b) The sums received for individual parcels.
  - (c) Identification of the parcels by year, page and number of the delinquent and current roll.
  - (d) The cost of recording the deeds.
- §3719** The amount of the cost of advertising the sale, including but not limited to the published notice required by Section 3702, shall be deposited in the county general fund and the balance, excepting the recorder's fee, shall be deposited in the delinquent tax sale trust fund.
- §3794.3** A sale under this chapter shall take place only if approved by the board of supervisors.
- §4101** Tax-defaulted property may be redeemed until the right of redemption is terminated.
- §4112** (a) When tax-defaulted property subject to the notice recorded under Section 3691.4 is redeemed, the tax collector shall collect all of the following, in addition to the amount required to redeem:
- (1) A fee of thirty-five dollars (\$35) that shall be distributed to the county general fund to reimburse the county for its cost of obtaining the names and last known mailing addresses of, and for mailing notices required by Section 3701 to, parties of interest as defined by Section 4675.

**§4112**  
**(cont.)**

(2) A fee in the amount required by Section 27361.3 of the Government Code that shall be distributed to the county recorder for the cost of recordation of a rescission of the notice, as required by subdivision (c).

(3) A fee of one hundred fifty dollars (\$150) if redemption is within 90 days of the proposed date for the tax sale of the redeemed property. In the case of unsold tax sale properties remaining on the abstract after the tax sale, the fee shall become a part of the redemption amount and collectible whenever the property is redeemed. The fee shall be distributed to the county general fund to reimburse the county for costs incurred by the county in preparing to conduct that sale.

(4) The amount described in subdivision (c) of Section 3704.7 to reimburse the county for the cost of a personal contact required by that section.

(b) Notwithstanding subdivision (a), if the tax-defaulted property is redeemed prior to the proposed sale, but after the county has incurred notice or publication costs pursuant to Section 3702 in connection with a notice of intended sale, a fee in an amount reasonably necessary to reimburse the tax collector for those costs may be collected.

(c) When tax-defaulted property subject to the notice recorded under Section 3691.4 is redeemed, the notice becomes null and void and the tax collector shall execute and record with the county recorder a rescission of the notice in the form prescribed by the Controller. The rescission shall be acknowledged by the county clerk, without charge.

(d) Any fee imposed under paragraph (1) of subdivision (a) or subdivision (b) shall be subject to the requirements of Section 54986 of the Government Code.

**§4672**

(a) There shall be distributed to the State of California, to be placed in the General Fund, one dollar and fifty cents (\$1.50) for all or any portion of each separately valued parcel of real property that is both subject to a power of sale pursuant to Section 3691 and sold to private parties or to a taxing agency.

(b) The one dollar and fifty cents (\$1.50) required to be distributed, pursuant to subdivision (a), shall be paid from the total proceeds of the sale. If the total amount of proceeds from the sale is insufficient, the one dollar and fifty cents (\$1.50) shall be reduced accordingly.

**§4672.1**

(a) There shall be distributed to the county general fund to reimburse the county for the cost of conducting the sale, one hundred fifty dollars (\$150) for all or any portion of each separately valued parcel of real property subject to a power of sale pursuant to Section 3691 and sold to private parties or to a taxing agency.

(b) The one hundred fifty dollars (\$150) required to be distributed pursuant to subdivision (a), shall be paid from the total proceeds of the sale only after satisfaction of the amount specified in Section 4672. If the amount of proceeds from the sale is insufficient, the one hundred fifty dollars (\$150) shall be reduced accordingly.

- §4672.2** There shall be distributed to the county general fund to reimburse the county for the cost of giving notice pursuant to Section 3701 thirty-five dollars (\$35) for all or any portion of each separately valued parcel of real property subject to a power to sale pursuant to Section 3691 and sold to private parties or to taxing agencies. Thirty-five dollars (\$35) for property sold shall be paid from the total amount to be distributed after satisfaction of the amounts specified in Sections 4672 and 4672.1. If the amount is insufficient, the thirty-five dollars (\$35) shall be reduced accordingly.
- §4672.3** (a) To reimburse the county for the costs of a personal contact, there shall be distributed to the tax collector a sum equal to the total amount of costs of the tax collector, but not to exceed one hundred dollars (\$100), incurred in conducting the personal contact pursuant to Section 3704.7, for all or any portion of each separately valued parcel of real property subject to a power of sale and sold to private parties or a taxing agency.
- (b) The amount of costs shall be paid from the total amount to be distributed from the sold property, after satisfaction of the amount specified in Section 4672. If, after satisfaction of the amount specified in Section 4672, there are insufficient funds to pay the costs specified in subdivision (a), the costs shall be reduced accordingly.
- §4673** Amounts to reimburse the county for the cost of advertising sales of tax-defaulted property shall be distributed to the county general fund as provided in Section 3719.
- §4673.1** After satisfaction of the amount specified in Sections 4672, 4672.1, and 4673, the proceeds shall be distributed as follows:
- (a) An amount of the proceeds up to but no greater than the amount required, at the time of sale, to redeem the property from tax default and the sale to any taxing agency entitled to share in the proceeds shall be distributed as follows:
- (1) A pro rata share shall be distributed to each assessment fund in an amount bearing the same proportion as the assessment due each fund bears to the total amount of taxes and assessments necessary to redeem the property at the time of sale.
- (2) The remaining balance of the proceeds to be distributed under this section shall be distributed to each tax fund in an amount bearing the same proportion to the balance remaining as the tax rate for each fund bears to the total tax rate applicable to the property for the fiscal year preceding that in which the property was sold.
- (b) After satisfaction of the amounts specified in subdivision (a), an amount of the proceeds necessary to satisfy current taxes and assessments and applicable penalties and costs thereon for the fiscal year in which the tax sale is held shall be distributed as provided in Chapter 1a (commencing with Section 4653) of this part. Current taxes and assessments referred to herein include taxes and assessments which would have been levied on the property if the property were not tax-deeded to any taxing agency and remains subject to sale by, or redemption from, the taxing agency.

- §4674** Any excess in the proceeds deposited in the delinquent tax sale trust fund remaining after satisfaction of the amounts distributed under Sections 4672, 4672.1, 4672.2, 4673, and 4673.1 shall be retained in the fund on account of, and may be claimed by parties of interest in the property as provided in, Section 4675. At the expiration of one year following the recordation of the tax deed to purchaser, any excess proceeds not claimed under Section 4675 shall be distributed as provided in paragraph (2) of subdivision (a) of Section 4673.1, except prior to the distribution, the county may deduct those costs of maintaining the redemption and tax-defaulted property files, and those costs of administering and processing the claims for excess proceeds, that have not been recovered under any other provision of law.
- §4675**
- (a) Any party of interest in the property may file with the county a claim for the excess proceeds, in proportion to his or her interest held with others of equal priority in the property at the time of sale, at any time prior to the expiration of one year following the recordation of the tax collector's deed to the purchaser.
  - (b) After the property has been sold, a party of interest in the property at the time of the sale may assign his or her right to claim the excess proceeds only by a dated, written instrument that explicitly states that the right to claim the excess proceeds is being assigned, and only after each party to the proposed assignment has disclosed to each other party to the proposed assignment all facts of which he or she is aware relating to the value of the right that is being assigned.
  - (c) Any attempted assignment that does not comply with these requirements shall have no effect. This paragraph shall apply only with respect to assignments on or after the effective date of this paragraph. In addition, any person or entity who in any way acts on behalf of, or in place of, any party of interest with respect to filing a claim for any excess proceeds shall submit proof with the claim that the amount of the excess proceeds has been disclosed to the party of interest and that the party of interest has been advised of his or her right to file a claim for the excess proceeds on his or her own behalf.
  - (d) The claims shall contain any information and proof deemed necessary by the board of supervisors to establish the claimant's rights to all or any portion of the excess proceeds.
  - (e) No sooner than one year following the recordation of the tax collector's deed to the purchaser, and if the excess proceeds have been claimed by any party of interest as provided herein, the excess proceeds shall be distributed on order of the board of supervisors to the parties of interest who have claimed the excess proceeds in the order of priority set forth in subdivisions (a) and (b). For the purposes of this article, parties of interest and their order of priority are:
    - (1) First, lienholders of record prior to the recordation of the tax deed to the purchaser in the order of their priority.
    - (2) Second, any person with the title of record to all or any portion of the property prior to the recordation of the tax deed to the purchaser.
  - (f) In the event that a person with title of record is deceased at the time of the distribution of excess proceeds, the heirs may submit an affidavit pursuant to Chapter 3 (commencing with Section 13100) of Part 1 of Division 8 of the Probate Code, to support their claim for excess proceeds.

**§4675**

**(cont.)**

- (g) Any action or proceeding to review the decision of the board of supervisors shall be commenced within 90 days after the date of that decision of the board of supervisors.

**§4676**

When excess proceeds from the sale of tax-defaulted property exceeds one hundred fifty dollars (\$150), the county shall provide notice of the right to claim the excess proceeds, as provided herein.

- (a) No later than 90 days after the sale of the property, the county shall mail written notice of the right to claim excess proceeds to the last known mailing address of parties of interest, as defined in Section 4675. The county shall make a reasonable effort to obtain the name and last known mailing address of parties of interest.
- (b) If the last known address of a party of interest cannot be obtained, the county shall publish notice of the right to claim excess proceeds in a newspaper of general circulation in the county. The notice shall be published once a week for three successive weeks and shall commence no later than 90 days after the sale of such property.

The cost of obtaining the name and last known mailing address of parties of interest and of mailing or publishing the notices required herein shall be deducted from the excess proceeds and shall be distributed to the county general fund.

**§4807**

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against any county, municipality, or district, or any officer thereof, to prevent or enjoin the collection of property taxes sought to be collected. In the case of a collection of taxes pursuant to a bankruptcy proceeding, the county may request a reasonable amount of attorney's fees.

**§4986.6**

- (a) When any real property escheats to the state after the lien date and is not distributed by description, either because it is unknown, or is included in a general distribution clause without description, or is property as to which no probate proceedings have been taken, all taxes levied upon the real property are valid and any tax sale for those taxes conveys the same title thereto as if no escheat had occurred, notwithstanding any provision of law to the contrary. All those taxes levied upon the real property and tax sales duly taken pursuant to law occurring before the effective date of this section are hereby validated.
- (b) If real property as described in subdivision (a) is discovered prior to tax sale by delivery to the tax collector of a certified death certificate, the public administrator of the county where the decedent resided at the time of death, and in the county in which the property is situated, if different, shall be notified of the decedent's property that is subject to loss, injury, waste or misappropriation under Section 7600 of the Probate Code. The public administrator of the county where the decedent resided at the time of death shall take possession or control of the property under Section 7601 of Probate Code and conduct a probate investigation as authorized under Sections 7602 and 7603 of the Probate Code. Following the probate investigation, the public administrator shall do one of the following:



**§4986.6  
(cont.)**

- (1) If a person with a higher priority cannot be found to assume responsibility for the estate, the public administrator of the county where the decedent resided at the time of death shall immediately commence probate proceedings with respect to the property, and the tax sale may not be made. The probate proceedings may be summary proceedings, as authorized by Section 7660 of the Probate Code, or formal proceedings as authorized by Letters of Administration from the Superior Court under Section 7620 of the Probate Code. A tax sale may not be made until the probate process is completed.
- (2) If a person with a higher priority cannot be found to assume responsibility for the estate, and the value of the estate will not cover the taxes, the secured liens, and the cost of probate, the public administrator of the county where the decedent resided at the time of death, as authorized by Section 7603 of Probate Code, shall notify the tax collector in writing that the public administrator has investigated the estate and has determined that the anticipated equity in the property after settlement of all secured liens and taxes does not warrant opening estate administration, at which time the tax sale may proceed.

**Government Code**

**Section      Statute Text**

**§27361.3** Notwithstanding any contrary provision of the law, the fee for recording every release of lien, encumbrance, or notice by the State, or any municipality, county, city, district or other political subdivision shall be eight dollars (\$8) if the original lien, encumbrance, or notice was recorded without fee as provided by Section 27383 of the Government Code.

No fee shall be charged for recording a release of lien, encumbrance, or notice which was recorded in error by the state, or any municipality, county, city, district or other political subdivision if there is noted on the face of the release of lien, encumbrance, or notice a statement to that effect.

Two dollars (\$2) for recording each release of lien pursuant to this section shall be available solely to support, maintain, improve, and provide for the full operation for modernized creation, retention, and retrieval of information in each county's system of recorded documents.

**§54985** (a) Notwithstanding any other provision of law that prescribes an amount or otherwise limits the amount of a fee or charge that may be levied by a county, a county service area, or a county waterworks district governed by a county board of supervisors, a county board of supervisors shall have the authority to increase or decrease the fee or charge, that is otherwise authorized to be levied by another provision of law, in the amount reasonably necessary to recover the cost of providing any product or service or the cost of enforcing any regulation for which the fee or charge is levied. The fee or charge may reflect the average cost of providing any product or service or enforcing any regulation. Indirect costs that may be reflected in the cost of providing any product or service or cost of enforcing a regulation shall be limited to those items that are included in the federal Office of Management and Budget Circular A-87 on January 1, 1984.

## United States Code

Section	Statute Text
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<b>Title 26, §7425(c)(1)</b>	
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	<b>Notice of Sale</b>
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	Notice of sale to which subsection (b) applies shall be given (in accordance with regulations prescribed by the Secretary) in writing, registered or certified mail or by personal service, not less than 25 days prior to such sale, to the Secretary.
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	<u>Note</u> : Secretary is defined as the United States Attorney General (USC Title 18, §36139(c)).
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## VIII. Court Decisions/Attorney General Letter

1. **First Corporation, Inc. v. County of Santa Clara**  
(retyped from original appearance)

**FIRST CORPORATION, INC. v.  
COUNTY OF SANTA CLARA**  
146 Cal. App. 3d 841, 194 Ca. Rptr. 752 [Sept. 1893]

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### HEADNOTES

Classified to California Digest of Official Reports, 3d Series

- (1) **Property Taxes § 67 – Sale for Delinquent Taxes – Recovery of Excess of Sale Price Over Tax Liability – Fractional Ownership Interest.** – In an action by the sole claimant to the excess proceeds of real property sold by the state for nonpayment of taxes, in which the claimant had only a fractional share in the property before its sale by the state, the trial court properly determined that the claimant was not entitled to the entire excess of proceeds remaining after satisfaction of the costs of sale and the unpaid tax assessments; rather, it was entitled only to its fractional share. Rev. & Tax. Code, § 4674, provides that such excess proceeds are to be held on account of and may be claimed by the parties of interest in the property, and that any unclaimed excess proceeds are to be distributed to the taxing agencies which had unpaid assessments against the property; also, Rev. & Tax. Code, § 4675, provides that excess proceeds are to be distributed only to the parties of interest who have claimed them. Thus, since the rights to the excess proceeds were created when the proceeds came into existence, the distribution rights were subject to the general rule that when property rights are simultaneously created in several parties, the claiming parties do not succeed to the rights of the nonclaiming parties. Moreover, public policy did not dictate a distribution of the unclaimed proceeds to other claimants, rather than to the taxing agencies.

[See Cal. Jur. 3d, Property Taxes, § 177; Am. Jur. 2d, State and Local Taxation, §911.]

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### COUNSEL

Marinos, Styn & Studebaker and Jeffrey N. Garland for Plaintiff and Appellant.

Selby Brown, Jr., County Counsel, and Byron T. Athan, Deputy County Counsel, for Defendants and Respondents.

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## 2. Attorney General Letter NS2286

STATE OF CALIFORNIA  
Legal Department

San Francisco, California  
January 23, 1940

Honorable Harry B. Riley  
State Controller  
Sacramento, California  
Attention: Mr. Volney Van Dyke

Dear Sir:

I have before me your communication of January 16, 1940, wherein you asked to be advised whether a Board of Supervisors of a particular county could, by appropriate resolution, rescind its prior action whereby it approved, pursuant to section 3834.14 of the Political Code, the sale of tax deeded property.

The facts involved in your problem may be briefly stated as follows:

An applicant to purchase property that had been deeded to the State of California for nonpayment of delinquent county taxes advanced the costs of advertising the same at the time he submitted his written application to the Tax Collector of the county involved. The latter official submitted this application to the Board of Supervisors who by an appropriate resolution, approved the sale pursuant to section 3834.14 of the Political Code. Thereafter the Tax Collector submitted the resolution of approval to you and, acting pursuant to section 3834.16 of the Political Code, you gave your written authorization. The notices of sale required by section 3834 of the Political Code, were given i.e. written notice to the former owner, and other taxing agencies together with two of the three publications. However, after the second publication, the Board of Supervisors purported to rescind their former action by adopting two resolutions i.e. one notifying the Tax Collector of their objections to the sale and the other purporting to rescind their prior resolution consenting to the same, and ordering the Tax Collector not to take any further steps in regard to the contemplated sale.

It is my opinion that the administrative action taken by the Board of Supervisors pursuant to section 3834.14, supra, cannot be rescinded by a subsequent resolution of said Board. That Board had the power to approve or reject the proposed sale of the tax deeded land. Having taken action by adopting a resolution consenting to the sale, it is my opinion that their action was final and could not, in the absence of fraud or statutory authorization, be rescinded. See Michigan Land and Lumber Co. v. Rust, 168 U.S. 589, 584. People v. Cantor, 180 N.Y.S. 153, 155.

The action taken by the Board of Supervisors was administrative or quasi-judicial in nature, and it is my opinion that a doctrine analogous to estoppel or res adjudicata is applicable herein.

In order to have some semblance of finality to such action taken by such Board, it is my opinion that when they have taken a position, with all the facts before them, such action should be regarded as final and conclusive, unless as we have stated above, there is fraud involved or there is statutory authorization for such review and rescission.

Very truly yours,  
EARL WARREN, Attorney General  
By James J. Ardito, Deputy

NS-2286 6247

**3. Numitor Gold Mining Co. v. Katzer**  
(retyped from original appearance)

**NUMITOR GOLD MINING CO. v.  
KATZER**

83 Cal. App. 161; 256 P.464; 1927

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**HEADNOTES**

- (1) **TAXATION – TAX SALES – CHARACTER OF PROCEEDINGS – DEEDS.** Proceedings on tax sales are *in invitum*, and every essential step leading to the execution of a tax deed must be strictly followed, or the deed executed pursuant thereto will be void.
- (2) **ID. – DELINQUENT TAXES – NOTICE OF SALE – DESCRIPTION OF PROPERTY.** A description of property noticed for sale for delinquent taxes as follows: "Portions E. of Greenhorn Creek of E½ of SW¼ of NE¼ of Sec. 15, Twp. 15 N., R. 9 E., Mt. D. B. & M., cont. 5 acres," is not uncertain, as it clearly includes *all* that portion of the specifically described land lying east of Greenhorn Creek, which portion consists of five acres.
- (3) **ID. – DESCRIPTION – SUFFICIENCY OF.** The following description of property noticed for sale for delinquent taxes is sufficient, to wit: "Portion E. of Greenhorn Creek of E½ of E½ of Sec. 15 Twp. 15 N., R. 9 E., Mt. D. B. & M., containing 80 acres."
- (4) **ID. – CERTAINTY OF DESCRIPTION.** A description of property noticed for sale for delinquent taxes as follows: "SW¼ (except part in Bear River) and S½ of S½ of NW¼ of Sec. 14, Twp. 15 N., R. 9 E., Mt. D. B. & M., containing 180 acres," is not uncertain.
- (5) **ID. – IDENTIFICATION OF PROPERTY – DESCRIPTION.** While it is true that a description of land for the purposes of taxation must be certain, yet the description is *prima facie* sufficient if the land can be readily identified and located so as not to mislead the owner.
- (6) **ID. – TIME AND PLACE OF SALE – DEFECTIVE NOTICE.** A notice of sale of property for delinquent taxes, the caption to which read, "Property to be sold at public auction on June 27, 1923, for delinquent taxes of 1918," and the body of which read that the tax collector "will be on the 27th day of June, 1922, at 10 o'clock A. M. of said day, and continuing each day thereafter, if additional time is required to complete the sale in the Tax Collector's office," and "will sell at public auction to the highest bidder for cash in lawful money of the United States, the several parcels and lots of property hereinafter described," is fatally defective, as it states neither the time nor the place of sale.
- (7) **ID. – TIME OF SALE – NOTICE – JURISDICTION.** The notice of the sale is statutory and jurisdictional and the court may not speculate as to the actual date intended to have been inserted.

**Numitor Gold Mining Co. v. Katzer (cont.)**

- (8) **ID. – NOTICE OF SALE – SERVICE BY MAIL. JURISDICTION – RETURN OF NOTICE PRIOR TO SALE – VOID DEED – POSTAL REGULATIONS.** The service of a notice of sale of property for delinquent taxes by mail is jurisdictional, and where it is returned prior to the sale without having been delivered, it is an insufficient service of notice, and a deed executed pursuant to such a defective notice is void; nor is such jurisdictional prerequisite waived by virtue of the reason that the United States postal rules, in the absence of instructions from the sender to the contrary, require the return of the parcel prior to the expiration of twenty-one days required by section 3771a of the Political Code.
- (9) **ID. – POSTAL REGULATIONS – CONSTRUCTION – SECTION 3771a, POLITICAL CODE.** Section 956 of the United States Postal Laws, as amended in 1918, implies that the sender of registered mail may request the retaining of the parcel at its destination not to exceed ninety days; and the postal rules are not in conflict with section 3771a of the Political Code respecting the service by mail of notice of proposed tax sales.
- (10) **ID. – VOID TAX DEED – RIGHT OF HOLDER TO REIMBURSEMENT FOR IMPROVEMENTS OR BETTERMENTS – QUIETING TITLE – TERMINATION OF RIGHT OF WAY – EXPENSE OF LITIGATION – EVIDENCE.** Under subdivision 5 of section 3898 of the Political Code, an owner of property is not liable for the value of improvements or betterments placed upon the property by the order of a void tax deed; and in an action to quiet title to real property and to declare defendants' tax deed void on account of a defective notice of sale, the latter are not entitled to be reimbursed by the plaintiff for having instituted litigation to terminate a right of way across the property in question, without any showing that such litigation was likely to terminate favorably to the defendants, or that if it terminated successfully for the defendants the value of the premises would be enhanced.



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